



CITY OF WESTMINSTER

MINUTES

Licensing Sub-Committee (2)

MINUTES OF PROCEEDINGS

Minutes of a meeting of the **Licensing Sub-Committee (2)** held on **Thursday 18th June, 2020**, This will be a virtual meeting.

Members Present: Councillors Tim Mitchell (Chairman), Barbara Arzymanow and Aziz Toki

SMEMBERSHIP

WCC LICENSING SUB-COMMITTEE NO. 2

Thursday 18th June 2020

Membership: Councillor Tim Mitchell (Chairman)
Councillor Barbara Arzymanow and Councillor Aziz Toki

Officer Support: Legal Officer: Barry Panto
Committee Officer: Andrew Palmer
Policy Officer: Aaron Hardy
Presenting Officer: Kevin Jackaman

Application for a New Premises Licence [20/03534/LIPN]

Full Decision

Premises

The London Marriot Hotel
84-86 Duke Street
London
W1K 6JP

Applicant

Lomar Hotel Company Limited
Represented by Mr Mark Browning, Solicitor

Mr Ian Pask, General Manager

Cumulative Impact Area?

None.

Ward

West End

Summary of Application

The Premises operated as a hotel, and had the benefit of two premises licences from 2005 for the following areas:

- The London Marriot Hotel
- The London Marriot Hotel Pre-function Rooms

The Applicant was seeking to combine their two existing premises licences under a new single premises licence. Subject to the grant of this application, the existing premises licences would be surrendered.

The new application is for essentially the same hours as those on the existing licence, but the applicant was also seeking permission to provide Late Night Refreshment on Sundays which was not currently permitted.

The new application does not include a number of conditions that appear on the existing licences and some of those objecting have expressed concern in that regard, especially about the potential for an increase in the number of private events that might be held.

Proposed Activities and Hours

[Retail Sale of Alcohol \[On and Off sales\]](#)

Monday to Saturday 10.00 to 03.00 on the following day
Sunday 12.00 to Midnight

Extended from the end of permitted hours on New Year's Eve to the start of permitted hours on New Year's Day.

[Late Night Refreshment \[Indoors and Outdoors\]](#)

Monday to Saturday 23.00 to 03.30
Sunday 23.00 to 00.30.

Extended from the end of permitted hours on New Year's Eve to the start of permitted hours on New Year's Day.

[Live Music, Performance of Dance and anything similar \[Indoors and Outdoors\]](#)

Monday to Saturday 09.00 to 03.00 on the following day
Sunday 09.00 to 23.00

[Recorded Music \[Indoors and Outdoors\]](#)

Unrestricted (24-hour operation)

[Exhibition of Films \[Indoors only\]](#)

Unrestricted (24-hour operation)

[Hours premises are open to the public](#)

Monday to Sunday 00.00 to 00.00 (24-hour operation)

All activities are unrestricted for residents and their bona fide guests

Representations Received

- Environmental Health Service (Ian Watson)
- Residents Society of Mayfair and St James (RSMSJ) (Mike Dunn)
- Grosvenor Mayfair Resident's Association (GMRA) and residents living in Chesham Flats on the Peabody Estate (Rebecca Storey)
- 10 local residents (some represented by Richard Brown, CAB Licensing Advice Service) as follows:
 - Mrs Susie Barr - 23 Balderton Flats, Brown Hart Gardens
 - Mrs Vivienne Loesch - 19 Balderton Flats, Brown Hart Gardens (who has provided a further submission set out in your additional information report)
 - Lee France - 47 Balderton Flats, Brown Hart Gardens
 - Mr Christopher Barr - 23 Balderton Flats, Brown Hart Gardens
 - Mrs Pat Jensen - 13b Chesham Flats, Brown Hart Gardens
 - Andrew Lahman - 18d Chesham Flats, Brown Hart Gardens
 - Christopher Cahill - 16c Chesham Flats, Brown Hart Gardens (also in attendance)
 - Ms Danique Osborne - 48 Hanover Flats, Gilbert Street
 - Mr Dave Brookfield - 19 Stalbridge Flats, Lumley Street
 - Ms Belinda Harley - 48 Adams Row

Summary of issues raised by objectors

- Essentially, possibility of public nuisance and especially noise.
- Close proximity of residents.
- Concerns about music on the entrance forecourt, whether amplified or not. Includes a reference to a drum band (see complaints from September to December 2019).
- Glass collections in the early hours of the morning causing a disturbance.
- Hotel staff smoking outside Chesham Flats.
- Noise from cars and taxis along George Yard (opposite Chesham Flats).
- Concerns about the removal of existing conditions 14,15,21 and 22 (explained in more detail in the submissions from Richard Brown).
- Marriot now seem to run the hotel almost like a night club venue with parties several times a week.
- Loading of vehicles after events until the early hours of the morning (3 am mentioned by one objector).
- Staff of the hotel exit out of the back of the hotel (from George Yard) noisily and with no concern for anyone. There is never a door person or security to tell them to be quiet.
- Hotel management does not take sufficient measures to resolve matters and sometimes refuses to take responsibility for nuisance caused by private contractors involved with events.
- Also seemed to be a problem from air conditioning plant associated with a Gordon Ramsay restaurant operating from within the hotel (with entrance on Grosvenor Square).

Policy Position

There is no policy to refuse this application, as the proposal is for the Premises to operate as the London Marriot Hotel and the Premises are not situated in a Cumulative Impact Area. The application must, therefore, demonstrate that it meets the relevant criteria and be determined on merit.

DECISION

Having considered all the submissions made by the Applicant and those opposing the application, the Licensing Sub-Committee has decided to grant the application subject to further conditions.

The Presenting Officer introduced the application, which was for a new premises licence. He stated that Environmental Health had maintained their representation on policy grounds. He also advised that twelve representations had been made on the grounds of prevention of public nuisance, specifically in relation to noise nuisance. Additional submissions had been received from the applicant and objectors, which had been circulated to all parties.

The Sub-Committee heard a description of the proposal from Mr Browning with further evidence being provided by Mr Pask. The Applicant acknowledged that issues had been experienced in the past, which had included noise from the forecourt and from loading and deliveries, and apologised for any nuisance that had been caused. Measures to mitigate disturbance had included a full acoustic survey of the ballroom, with extensive soundproofing being installed and meter readings being made during events. Shutters had also been installed around the bottle skips with no collections before 07.00; and a designated smoking area had been introduced. The loading and unloading of vehicles had also now moved to the front of the Premises, which would be less intrusive and strictly controlled. Regulated entertainment would also no longer take place on the forecourt. Mr Browning confirmed that activity outside of the Premises caused by third parties such as the Gordon Ramsey Restaurant, which provided services at the hotel, were within the hotel's responsibility. Mr Browning also confirmed that there were no intentions to create any form of night club at the hotel.

The Applicant suggested that quarterly meetings be held with residents to enable them to raise any issues; and confirmed that residents would be provided with a telephone number so that they could contact the hotel if there were any problems. Mr Browning stated that the Applicant sought the removal of the condition that restricted the number of events, as the hotel business had changed significantly over recent years. A greater number of conferences and weddings needed to be staged to remain economically viable and compete with other hotels.

Mr Browning commented that while the new licence should represent a fair compromise between all parties with conditions that addressed residents' concerns, it had to be accepted that the Premises was a major hotel in a busy area. Mr Browning stated that if the conditions became so restrictive as to make the hotel inoperable, the Applicant would have to fall back on the two licences they already had. Mr Pask confirmed that he hoped conditions could be agreed that worked commercially and for residents.

Mr Pask explained how he had dealt with some of the issues raised by those objecting. He accepted that there had been a problem with drumming on the forecourt that was associated with a particular event, but that arrangement had now been terminated. He also pointed out that the equipment that was causing a problem within the Gordon Ramsay restaurant had not been installed by the applicant company, but they did nevertheless intervene to sort matters out. He did acknowledge that the applicant did have ultimate responsibility for the restaurant. He also apologised for any problems caused by associated who were smoking outside the premises and confirmed that it was wrong for any associates to indicate that the hotel did not have responsibility for their contractors.

The Sub-Committee then heard from Mr Watson on behalf of Environmental Health. He outlined the complaints that had been received over the last two years, which had related to nuisance arising from events on the forecourt and from loading and unloading. Members noted that approval for entertainment on the forecourt had been approved in December 2009. Environmental Health had proposed additional conditions for the new licence which included the removal of live music from the forecourt; and limiting the times for loading and unloading with sound-deadening

material to be laid on the street to reduce noise. Following submissions from the parties, further conditions had been proposed by Environmental Health on the morning of the Hearing, which related to regular meetings between the hotel and residents; and a condition for the provision of a direct contact telephone number for residents if they have causes for concern.

Mr Brown addressed the Sub-Committee on behalf of local residents, and expressed concern over the late terminal hour that was being sought, particularly for events; and on the request to delete of some of the conditions. He pointed out that the immediate area was highly residential in nature, with 70 residents in the Chesham Flats and 350 residents in the entire estate. Mr Brown highlighted that this was not a new licence application, and that objectors had provided proof that disturbance had recently taken place. In answer to the point made by the applicant that the hotel did not want to cause any disturbance to its own residents, he pointed out that hotel rooms were frequently well insulated to prevent noise nuisance. Residents did not have the benefit of such insulation.

Mr Brown stated that other hotels had more conditions, with loading and unloading having to take place the next day or within restricted hours. Mr Brown commented on licensing policy relating to public nuisance in which stricter conditions could be applied in areas of residential accommodation. The condition limiting the number of events had also been on the existing licence for many years, with no application for it to be amended. Mr Brown suggested that if the application was granted, it would be appropriate for a condition to be added providing for there to be no loading or unloading between 23:00 and 08:00. He also asked for a number of additional model conditions to be attached to the licence.

Mr Cahill addressed the Sub-Committee as the resident of a property opposite the premises and stated that his main concern related to the timing of loading and unloading vehicles on the forecourt. He did not consider a series of vehicles loading and unloading until 03:00 was reasonable; and did not consider that the provision of sound-deadening material would be effective. He explained that the problem was frequently about the loading of metal crates into the vehicles. Mr Cahill believed that complaints to the City Council's Noise Team had not been logged; and that people smoking outside gathered in groups without being monitored.

The Sub-Committee acknowledged many of the points made by the objectors and therefore granted the application but subject to a number of additional conditions which included limiting the timing of loading and unloading at the Premises and limiting the use of the forecourt. A suite of key conditions has now been included and these are set out as conditions 36 to 47 below.

In response to residents' concerns over noise nuisance arising from late night loading and unloading, the Sub-Committee added a condition which provided that between 20.00 and 07.00 on the following day, all equipment used as part of an event within the ground floor function rooms shall only be removed from the premises via the front entrance of the hotel and loaded directly into vehicles parked within the external forecourt. The Sub-Committee also took note of the points made by the applicants that there might be occasions when such loading and unloading might be necessary. To provide a pragmatic solution to the issues raised by all the parties and ensure that there was not an open-ended ability to load and unload

between 23.00 and 07.00 the following morning, two conditions were added to the existing code of conditions. These provided that loading and unloading could only take place between the hours of 23.00 and 07.00 on the following day in exceptional and unavoidable circumstances; and that any loading and unloading during those hours must be properly managed to avoid nuisance and disturbance to local residents, with details of the activity to be recorded in a log which would be available for inspection.

The Sub-Committee was of the view that granting the application with the additional suite of conditions in place was a proportionate response to the application and would, therefore, promote the licensing objectives.

The Applicant is reminded that if unacceptable nuisance or disturbance is caused to local residents as a result of this application being granted, the residents do have the option of bringing a review of the licence.

The application is granted subject to the following conditions in addition to the Mandatory conditions applicable to this type of application:

Conditions attached after a hearing by the licensing authority

11. This licence is subject to all the former Rules of Management for Places of Public Entertainment Licensed by Westminster City Council, in force from 4 September 1998 and incorporating amendments agreed by the Council on 25 October 1999, 30 June 2000, 16 January 2001 and 1 October 2001.
12. On New Year's Eve the premises can remain open for the purpose of providing regulated entertainment from the time when the provision of regulated entertainment must otherwise cease on New Year's Eve to the time when regulated entertainment can commence on New Year's Day (or until midnight on New Year's Eve where no regulated entertainment takes place on New Year's Day).
13. Notwithstanding the provisions of Rule of Management No. 6, the premises may remain open for the purposes of this licence from 11pm on each of the days Monday to Saturday to 3am on the day following.
14. When the Pre-function area is in use other than as meeting rooms all folding doors/screens must be secured in the folded open position.
15. Room No.2 (Chester Room) shall not be used as a separate function room while Room No. 1 (Eaton Room) is in use under the licence.
16. The number of persons accommodated at any one time (excluding staff) shall not exceed:
Used individually
Room No. 1 (Eaton Room) - 350,
Room No.2 (Chester Room) - 250,
Room No. 3 (Belgravia Room) - 400

Room 2 and 3 combined when all the screens are folded back - 1,000.

17. The total capacity at any one time shall not exceed 1000
18. When the pre-function area is used independently of the ballroom for marriage ceremonies the accommodation figure shall be set at: 150
19. (a) Subject to the following paragraphs, the permitted hours for the sale of alcohol on weekdays shall commence at 10.00 and extend until 03.00 on the morning following, except that-
 - (i) the permitted hours shall end at 00.00 midnight on any day on which music and dancing is not provided after midnight; and
 - (ii) on any day that music and dancing end between 00.00 midnight and 03.00, the permitted hours shall end when the music and dancing end;
- (b) In relation to the morning on which summer time begins, paragraph (a) of this condition shall have effect-
 - (i) with the substitution of references to 04.00 for references to 03.00.
- (c) The sale of alcohol must be ancillary to the use of the premises for music and dancing and substantial refreshment.
- (d) The permitted hours on New Year's Eve will extend to the start of permitted hours on the following day, or if there are no permitted hours on 1 January, to 00:00 on New Year's Eve.

NOTE - The above restrictions do not prohibit:

- (a) during the first thirty minutes after the above hours the consumption of the alcohol on the premises;
- (b) during the first twenty minutes after the above hours, the taking of the alcohol from the premises unless the alcohol is supplied or taken in an open vessel;
- (c) the sale or supply of alcohol to or the consumption of alcohol by any person residing in the Licensed premises;
- (d) the ordering of alcohol to be consumed off the premises, or the despatch by the vendor of the alcohol so ordered;
- (e) the sale of alcohol to a trader or registered club for the purposes of the trade or club;
- (f) the sale or supply of alcohol to any canteen or mess, being a canteen in which the sale or supply of alcohol is carried out under the authority of the Secretary of State or an authorised mess of members of Her Majesty's naval, military or air forces;
- (g) the taking of alcohol from the premises by a person residing there;
- (h) the supply of alcohol for consumption on the premises to any private friends of a person residing there who are bona fide entertained by him at his own expense, or the consumption of alcohol by persons so supplied;

- (i) the supply of alcohol for consumption on the premises to persons employed there for the purposes of the business carried on by the holder of the licence, or the consumption of liquor so supplied, if the liquor is supplied at the expense of their employer or of the person carrying on or in charge of the business on the premises.

In this condition, any reference to a person residing in the premises shall be construed as including a person not residing there but carrying on or in charge of the business on the premises.

- 20. No person under fourteen shall be in the bar of the Licensed premises during the permitted hours unless one of the following applies:
 - (a) He is the child of the holder of the premises licence.
 - (b) He resides in the premises, but is not employed there.
 - (c) He is in the bar solely for the purpose of passing to or from some part of the premises which is not a bar and to or from which there is no other convenient means of access or egress.
 - (d) The bar is in railway refreshment rooms or other premises constructed, fitted and intended to be used bona fide for any purpose to which the holding of the licence is ancillary.

In this condition "bar" includes any place exclusively or mainly used for the consumption of intoxicating liquor. But an area is not a bar when it is usual for it to be, and it is, set apart for the service of table meals and alcohol is only sold or supplied to persons as an ancillary to their table meals.

- 21. If any entertainment is provided for children or if an entertainment is provided at which the majority of persons attending are children, then, if the number of children attending the entertainment exceeds 100, it shall be the duty of the holder of the premises licence (or the holder of the club premises certificate):
 - (a) to station and keep stationed wherever necessary a sufficient number of adult attendants, properly instructed as to their duties, to prevent more children or other persons being admitted to the building, or to any part thereof, than the building or part can properly accommodate,
 - (b) to control the movement of the children and other persons admitted while entering and leaving the building or any part thereof, and
 - (c) to take all other reasonable precautions for the safety of the children.
- 22. The terminal hour for late night refreshment on New Year's Eve is extended to 05:00 on New Year's Day.
- 23. No regulated entertainment shall take place on the private forecourt after 21:45 hours.
- 24. There shall be no more than 4 tables and 8 chairs on the private forecourt.
- 25. After 23:00 hours the private forecourt shall not be used by patrons and staff for licensable activities.

26. All licensable activities (including associated clearing, cleaning and collection of bottles or glassware) in the private forecourt area shall cease by 23:00 hours.
27. All outside tables and chairs in the private forecourt area shall be brought inside or rendered unusable by 23:00 hours.
28. When the private forecourt area is used solely for customers seated at outside tables and chairs alcohol shall be served by waiter or waitress only and only to persons seated at tables.
29. Regulated entertainment on the private forecourt will not start before 10:00 hours and will cease at 21:45 hours.
30. No more than 12 events per annum are to take place on the private forecourt area and notification to the Licensing Authority, Metropolitan Police and Residents Association shall be given 7 days in advance.
31. Amplified music and or speech played on the private forecourt area shall not be audible at any time 1 metre outside residential properties.
32. The premises shall install and maintain a comprehensive CCTV system as per the minimum requirements of the Westminster Police Licensing Team. All entry and exit points will be covered enabling frontal identification of every person entering in any light condition. The CCTV system shall continually record whilst the premises is open for licensable activities and during all times when customers remain on the premises. All recordings shall be stored for a minimum period of 31 days with date and time stamping. Viewing of recordings shall be made available immediately upon the request of Police or authorised officer throughout the entire 31 day period.
33. A staff member from the premises who is conversant with the operation of the CCTV system shall be on the premises at all times when the premises is open. This staff member must be able to provide a Police or authorised council officer copies of recent CCTV images or data with the absolute minimum of delay when requested.
34. An incident log shall be kept at the premises, and made available on request to an authorised officer of the City Council or the Police. It must be completed within 24 hours of the incident and will record the following:
 - (a) all crimes reported to the venue
 - (b) all ejections of patrons
 - (c) any complaints received concerning crime and disorder
 - (d) any incidents of disorder
 - (e) all seizures of drugs or offensive weapons
 - (g) any refusal of the sale of alcohol
 - (h) any visit by a relevant authority or emergency service.
35. A Challenge 25 proof of age scheme shall be operated at the premises where the only acceptable forms of identification are recognised photographic

identification cards, such as a driving licence, passport or proof of age card with the PASS Hologram.

36. There shall be no live music provided within the external forecourt area of the hotel.
37. After 20.00 hours, all equipment used as part of an event within the ground floor function rooms shall only be removed from the premises via the front entrance of the hotel and loaded directly into vehicles parked within the external forecourt.
38. Sound deadening material shall be temporarily laid out on the external forecourt at all times that equipment is being removed from the hotel following an event in the ground floor function rooms.
39. The hotel night manager or someone with equivalent responsibility shall use their best endeavours to ensure that all vehicles collecting equipment following a function have their engines and radios switched off, that conversation by all persons within the external forecourt is kept to a minimum and that the sound deadening material is appropriately laid out to all vehicles.
40. The Loading and unloading of vehicles associated with any events taking place at the hotel shall not take place between the hours of 23.00 and 07.00 on the following day. In exceptional circumstances, when the hotel night manager or someone with equivalent responsibility is of the view that loading or unloading cannot be avoided during those hours, it will be permitted subject to a security officer being on duty at the entrance of the hotel to oversee the loading or unloading so as to avoid the activity from causing any nuisance or disturbance to local residents.
41. Any loading or unloading that is permitted between the hours of 23.00 and 07.00 on the following day must be recorded in a log which identifies the person who authorised the loading or unloading and the dates and times when the loading or unloading actually took place. The log must also include details of any complaints that may be received in response to the loading or unloading being permitted during those hours. That log must be permanently retained on the premises and be produced for immediate inspection by any police officer or any authorised officer of the local authority.
42. The provision of licensable activities shall remain ancillary to the main use of the premises as a Hotel.
43. No noise generated on the premises, or by its associated plant or equipment, shall emanate from the premises nor vibration be transmitted through the structure of the premises which gives rise to a nuisance.
44. The hotel general manager shall, once every 3 months, meet with local residents to review and discuss any concerns regarding noise and disturbance arising from the operation of the hotel. The general manager shall advertise the meeting on their group website and notice will be given to the residential groups in the immediate area.

45. A direct telephone number for the manager at the premises shall be publicly available at all times the premises is open. This telephone number is to be made available to residents in the vicinity.
46. The premises licence holder shall ensure that any patrons, members of staff or contractors smoking outside the premises do so in an orderly manner and are supervised by staff so as to ensure that there is no public nuisance or obstruction of the public highway.
47. No licensable activities shall take place at the premises pursuant to this licence and this licence shall not take effect until premises licence 13/03942/LIPDPS and premises licence 13/03939/LIPDPS (or such other licences subsequently issued for the premises) have been surrendered and this condition has been removed from the licence by the licensing authority.

2 DECLARATIONS OF INTEREST

- 1 THE LONDON MARRIOTT HOTEL, 84 - 86 DUKE STREET, LONDON, W1K 6JP**

The Meeting ended at Time Not Specified

CHAIRMAN: _____

DATE _____