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22/11/2024

Development Management Regeneration and Planning

London Borough of Camden Town

Hall Judd Street

London

WC1H 9JE

**Date: 22/11/2024**

**Premises Use, Supply of Alcohol, Planning Application, Premises License**

Dear Leela Muthoora,

I hope this letter finds you well. I am writing to outline ongoing concerns with change of premises usage from the local business on the street 153 Fortress Road, NW5 2HR. I am a tenant at 151 Fortress Road, NW5 2HR and have been residing here since 19/01/2024, and Father/Brother since 2011 trading as ET House Restaurant.

As a new Leaseholder, from 19/01/2024 I have gone into refurbishment which lasted roughly 2 months, as you could understand the risks, costs and timely matter of this investment decision. Mr Ozcan starting his first initial approach to Camden by applying to the council on 19/06/2024 and granted on the decision on 15-07-2024 for change business structure from Existing Café to Restaurant. This is less than 5 months of me taking my new lease.

This change directly competes with my business in terms of both the type of services offered and the clientele attracted. The proximity of two similar restaurants will significantly affect my restaurant's foot traffic and sales. I have made my business decisions based on my neighbouring business being a coffee shop, limited hot food, not able to sell alcohol and trading hours restricted. Would be completely unfair to my business as an A3 premises holder.

By the looks of things so far, I can conduct these results.

**Full Planning Application**

2024/2335/P - Proposed use as a restaurant from existing café – Granted 19/06/2024

2024/3073/P - Installation of a ventilation extract duct from ground floor restaurant to rear roof level. – Refused 07/08/2024

2024/4434/P - Installation of an ESP (Electrostatic Precipitator) ventilation extract system to rear ground floor restaurant. – DATE REGISTERED (23/10/2024) – PENDING.

PREM-LIC\122483 – Granted – granted was based on information held in July, making invalid and outdated, requires new application based on ESP Application thoughtful consideration through neighbouring and local businesses.

For the 2024/2335/P – Proposed use as a restaurant from Existing café. Reviewing the online view, it is revealed as 'Grant Lawful Development Certificate'. As such, the change of use would be for a purpose of the same class, and so would not constitute "development" as defined by Section 55 of the Town & Country Planning Act 1990, and therefore would not require planning permission'. By looks of things, the category "Development" has been actioned incorrectly, due to actions made thereafter the original grant. Existing business making alternative application once 'development' has been made, moving into making significant planning application in which will action full on development to the premises with request of Extract unit, with further ESP request.

Believing, the cause of initial approval of granting the change of use from Café to Restaurant is believed to not make major alterations or to the existing business as to development. With the proposes planning applications of Ventilation and ESP (Pending), is believed to be under development. This automatically goes against the original 'grant of Lawful Development Certificate'. These applications should have been carried out together to truly assess the development aspect.

Application PE9900090, is a great example of this as 'The change of use of the ground floor from retail A1 to Class A3 restaurant including the erection of an extraction duct at rear, as shown on drawing number: 2663/01A'. Change of premises use and planning application was proposing **together**, instead of making separate request, which therefore will go against the decision-making process of the application and fall under development of initial request. 'The proposed development is unacceptable in that it is contrary to policies FiGS, 1-1G12 of the adopted Borough Plan and 51-114, 5H24, of the UDP. More particularly the proposed change of use from a retail (A1) to non-retail use within the defined 'Neighbourhood Shopping and Service Centre would have an adverse effect on the retail character, quality, vitality and viability of the shopping parade by reason of an increase in the number of non-retail uses.'

To further support the view, 'Does the proposal consist of, or include, the carrying out of building or other operations?' – NO, 10/06/2024 10:10.

Has the proposal been started? 'No' – However I can evidence, wrongful trading patterns in the premises prior to Mr Ozcan and current owner too. Evidence attaches, the premises is using oven, grill and heating products to prepare foods, which goes against its nature of business, food hygiene and lease premises, the act of request has started prior to the planning application, and wrongful trading activities due to not having proper fit of ventilation in place or a fan, impacting the condition of the neighbouring, cleaning, resulting pest to be uncontrollable, hence why my rating has dropped from 5 star to 2 star. Act 1974 which requires employers to provide safe conditions for staff to work in. The most important regulation to be aware of is the statutory requirement for all commercial kitchens to have an extractor fan with a minimum capacity of 60 cubic metres per hour.

Premises has also granted from Premises hours from 7am – 11pm, which can be seen to unfair commercial competition with many businesses in the neighbouring hood. The licensing has been granted by the Premises licensing team; however, a proper planning application has not been put in place for the increase of trading hours nor states on the lease. This clearly shows flows in communication between the Planning Application and licensing team.

Existing lease at the property states, 3.11 **Specified User and Management**, ‘for the sale of wines sprits ale or stout or any malt or excisable liquors of any kind to be consumed off the premises or for any offensive noisy or dangerous trade or business or manufacturer or occupation and not to use or permit or suffer to be used the demised premises or any part thereof otherwise than as a **bakery** and a **café** for the sale of bread cakes viennoiserie and hot and cold food and drinks (or for such other use within class A1 of the Town & County Planning (use classes) amendment order 2005 as the landlord shall first approve such approval to be in writing and shall not be unreasonably withheld or delayed) such trade to be conducted in a proper and orderly manner.’ This clearly states the Alcohol license granted for the premises is incorrectly and should be defined accurately before making significant changes.

Landlord is wrongfully accepting these trading facilities to allow increases on the rent market price to play a monopoly within the commercial businesses rent. To allow opportunity to increase rents and use existing businesses as a reference to boost the rent.

It has come to my attention that several tenants, have already raised these concerns with the council, specifically about the extract duct system and the associated risks of noise and light pollution. There are legitimate concerns about how the ducting and other operational changes could affect the living and working conditions for both residential and commercial tenants in the building.

In summary, I have covered

- Planning application wrongfully submitted due to trading activities have started years prior to new owner and old owner.
- Granting change of Café to Restaurant with no developments however, the new applications put in place/requested are categorised in these developments.
- Having two restaurants, with two extract duct or with new application ESP, causing more concerns to the neighbourhood health and safety.
- Impacting the street competitiveness by having Café and Restaurant with long trading hours. Will mean, other businesses and myself to put in application for longer hours as this will be used as an example.
- Changing the street dynamics by allowing more options to Alcohol in the street, results in conflicts and issues may rise with two restaurant serving alcohol next to each other as such arguments amongst the customers.

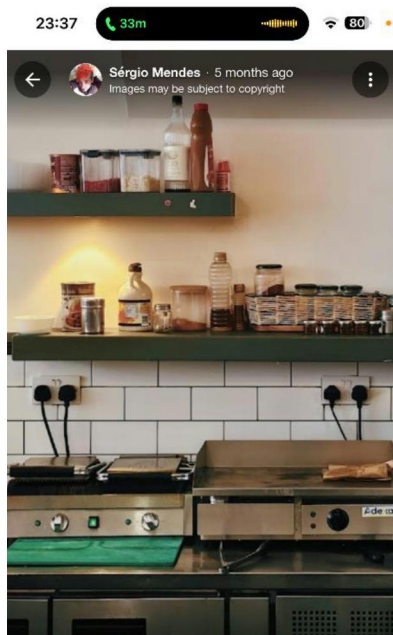
- Landlord granting wrongful trading activities to increase rents as an overall and to manipulate the renting market value, resulting increase in rent prices to benefit to the landlords but not the community.
- Food hygiene inspectors granting 5\* rating when premises is holding no ventilation system, cooking / grill should not be permitted on site.
- Premises License Granted – Hours Extended without planning application.

I trust that you share in the goal of maintaining a positive environment for all tenants in the street and ensuring that any changes made are in the best interests of the community.

Kind regards,

Yunus Kus

**Business owner of ET Restaurant 151 Fortress Road.**



**Extract 1: 5 months Ago, we can see evidence of these actions, with no proper ventilation in place.**



**Extract 2: 7 Years ago, different owner had the same issues of wrongful trading as can see a stove with no form of ventilation in place.**

Smashed Avocado	3
Streaky Smoked Bacon (3)	3
Smoked Salmon	4
Grilled Halloumi	3
Egg As You Like It	1.8
<i>Fried / Poached / Scrambled</i>	

**Extract 3: Menu from Current trading business, 'Smoked Salmon' 'Grilled Halloumi' 'Fried / Scrambled' are not under the lease nor have ventilation to have these foods cooked.**

LUNCH	
Grilled Salmon <small>(V) (PUBLO)</small>	13.5
Grilled salmon served with seasoned potatoes & salad	
Penne Arrabiata Pasta <small>(V) (PUBLO)</small>	11
Fresh penne pasta with garlic, red chilli paste, homemade tomato sauce & parsley	
Macaroni Cheese <small>(V)</small>	8.5

**Extract 4: Menu from Current trading business, 'Grilled Salmon' or Macaroni Cheese, items as such require making, needs some sort of ventilation in place. These items are also in my premises, in which I pay extra electricity for the Extract duct installation, maintenance and cost from operating these. Would this not be unfair on my business at which pays more Business rate?**



**Extract 5: ‘Grilled Halloumi’, how can it be grilled if they cant have a grilled if no ventilation is in place.**



**Extract 6: Shows both businesses. ET House owner myself (151) and Little Bear (153) owner Mr Ozcan.**

**Tell us about the premises business hours**

Day	Start time	End time
Monday	07:00	23:00
Tuesday	07:00	23:00
Wednesday	07:00	23:00
Thursday	07:00	23:00
Friday	07:00	23:00
Saturday	07:00	23:00
Sunday	07:00	23:00

**Extract 7: Premises Opening Hours -Granted without planning permission.**



#### Alcohol supply

Day	Start time	End time
Monday	11:00	23:00
Tuesday	11:00	23:00
Wednesday	11:00	23:00
Thursday	11:00	23:00
Friday	11:00	23:00
Saturday	11:00	23:00
Sunday	11:00	23:00

#### **Extract 8: Alcohol Supply Hours – Granted without planning permission.**

#### **Extract 8: Existing Cafes & Restaurants – With high numbers of restaurants**

- Rustique Fortress Road, NW5 2HP (142) Café
- Stingray Fortress Road, NW5 2HR (135) Restaurant
- Cinnamon Village Fortress Road, NW5 2HL (112)
- Ceremony Fortress Road, NW5 2HR (131) Restaurant Closed
- Et House Restaurant (New Occupier) as Existing owner struggled with local increase of restaurants
- Authentique Epicerie & Bar (Restaurant)
- Bonga 8 Fortress Rd, London NW5 2ES (Restaurant)
- The Queen of Sheba 2 Fortress Rd, London NW5 2EU (Restaurant)
- Patron 26 Fortress Rd, London NW5 2HB (Restaurant)
- Café Palestina 53 Fortress Rd, London NW5 1AD (Café)
- Haku Kitchin 118 Fortress Rd, London NW5 2HL (Restaurant)

#### **Extract 9: Meeting of Licensing Panel A, Thursday, 26th September 2024 7.00 pm (Item 10.)**

‘Friendly and approachable’ This is not the case as reports can be seen by residents above, mentioning Mr Haydar is uncooperative.

The applicants, Haydar Ozcan and Mahir Kilic, sought a premises licence for a café/restaurant, requesting to serve alcohol from 11:00 am to 11:00 pm daily, with opening hours from 7:00 am to 11:00 pm

There was concern from residents, Johnny White and Monika Szczygiel, regarding noise disturbance from the premises, especially from the garden area, which could affect the quiet environment of the nearby residential flats.

#### **Residents’ Concerns:**

##### **1. Noise Disturbance:**

Residents reported that noise from the garden area, particularly in the evenings, was audible in their flats. The sound carried heavily, and they feared that extending the opening hours would exacerbate the issue.

Noise assessments were questioned due to discrepancies in where the measurements were taken. The residents felt their flats were not adequately considered in the report.

## **2. Safety**

Concerns were raised about potential safety issues, particularly for women living in the flats above, with the late-night operation of the venue potentially leading to intoxicated behaviour.

## **3. Pavement Congestion**

The narrow pavement in front of the venue, near a tree and streetlamp, was also a concern. If customers lingered outside the venue, it would make it difficult for residents to pass, particularly near the tube station.

In response to the panel's decision, it can be argued that the ruling may not have fully considered the competitive dynamics between the new business and the existing establishment next door. This aspect is crucial for understanding the potential negative impact on the established business, which already serves Turkish beer, mezze, and similar dishes.

### **1. Impact of Direct Competition on Existing Business:**

**Overlapping Offerings:** The existing business, already serving Turkish beer, mezze, and similar dishes, could face significant competition from the new venue offering the same or similar products. The introduction of another restaurant with similar offerings in the same area could potentially draw customers away, especially as both establishments are targeting the same demographic (those interested in Turkish cuisine and alcohol).

**Market Saturation:** The area may already be saturated with businesses offering comparable food and drink, making it difficult for the existing business to maintain or grow its customer base. This could lead to a negative economic impact, especially if the new restaurant is allowed to operate late into the evening, potentially drawing away customers during peak hours when both businesses are likely to compete for patrons.

### **2. Noise and Customer Behaviour:**

**Compounding Noise Disturbance:** The panel focused primarily on noise emanating from the garden area of the new premises, but it did not address how the operation of two restaurants with similar offerings in such proximity might amplify the noise and potential disturbances in the area. With two businesses playing amplified music or hosting customers in outdoor seating areas late into the evening, noise levels could compound, making the situation worse for residents, especially those with single-glazed windows.

**Customer Conflicts and Alcohol Consumption:** The panel did not sufficiently address the potential for conflicts arising between customers of the two businesses, especially regarding alcohol consumption. If both establishments serve alcohol and have outdoor seating areas, the possibility of customers lingering or causing disruptions on the narrow pavement or in the garden increases. The presence of alcohol at both venues could lead to higher instances of rowdy behaviour, particularly in the evening, affecting the quality of life for residents.



### **3. Unfair Competitive Advantage:**

**Impact on Business Viability:** By granting a licence to the new café/restaurant, the panel may have inadvertently placed the existing business at a competitive disadvantage. The new establishment would be allowed to operate later, serve alcohol, and potentially offer the same cuisine, while the existing business, which has likely built up a local customer base over time, may now struggle to retain its patrons. This situation could affect the viability of the established business, potentially pushing it to close or reduce its hours, even though it was already operating within the parameters of its existing licence.

**Lack of Consideration for Established Businesses:** The decision seems to overlook the fact that the existing business has already made substantial investments in the area, providing a stable service to the local community. Introducing a direct competitor with similar offerings and extended hours could undermine the efforts of the current business, which had likely already taken local noise and community dynamics into consideration when designing its operations.

### **4. Need for a Holistic Approach:**

**Consultation with All Affected Parties:** It would have been fairer for the panel to consult with both the applicant and the existing business owners to better understand how the new establishment could impact the community dynamics. The existing business's perspective, particularly on potential noise and competition, should have been weighed equally to ensure a balanced approach.

**Holistic Assessment of the Area's Business Landscape:** The panel should have considered the broader business landscape and potential market effects on the existing business when evaluating the application. This would include assessing how the operation of two similar businesses in proximity could lead to market saturation, conflicts over space (e.g., customers lingering on the narrow pavement), and noise disturbances affecting both residential properties and local businesses.

### **Conclusion:**

The decision to grant the licence for the new restaurant may not have adequately considered the potential adverse effects on the existing business next door. The overlap in offerings, potential for compounded noise disturbance, and the risk of customer conflicts over alcohol consumption were not sufficiently addressed in the panel's deliberations. These factors could harm the viability of the established business, making the decision seem unfair. A more thorough review of the competitive and community impacts, including consultation with the existing business, could have led to a more balanced and equitable decision for all parties involved.

Given the refusal of the extract duct planning application, changes to the premises' floor plan, and the introduction of new equipment such as the ESP system, a new premises license application should be submitted. This application should include updated drawings, a new noise survey based on the revised premises design, and an accurate assessment of the potential impacts on the local community. The previous licensing decision was based on incorrect and outdated information, and as such, it is not valid in its current form. A fresh application will ensure transparency, fairness, and

proper consideration of all factors affecting the local area. The noise and disturbance risks could be significantly different than initially assessed, especially if the ESP system operates differently or generates different levels of noise or vibration compared to the previously planned extract duct. The noise survey referenced in the application was conducted on 23/07/2024, yet the new application (which includes the new ESP system) was not submitted until 23/10/2024. This discrepancy raises questions about the relevance of the noise survey, as it is based on outdated premises plans and equipment assumptions. The delay in submitting the new application and the difference in equipment proposed (from extract duct to ESP) could significantly alter the noise dynamics, requiring a new survey to accurately assess the potential impacts.

Proposed use would be likely to detrimental to the residential amenity in the area by reason noise, fumes, refuse and traffic generation, vitality and the viability of the shopping area, the impact on neighbours and the parking highway implications.

Further planning requests will be required for associated building works as such shown in the floor planning. Extra light pollution will be generated to the neighbouring by additional late-night restaurant.

Thank you for your attention to this matter and I look forward to your response and hope to resolve this issue promptly.