

**Dawson (development), Barry**

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**From:** Charlotte Street Assoc. [csafitzrovia@yahoo.co.uk]  
**Sent:** 20 August 2013 10:09  
**To:** Olcar-Chamberlin, Aysegul; Planning  
**Cc:** Harrison, Adam (Councillor); Gary Sollof  
**Subject:** Planning Application: 39 Whitfield Street, W1. ref: 2013/4267/P  
**Follow Up Flag:** Follow up  
**Flag Status:** Orange  
**Attachments:** CSA\_Planning\_39 Whitfield St\_15.08.2013.doc; CSA\_MAP Residential\_39 Whitfield St\_2011.PDF; CSA\_Planning\_39 Whitfield St\_prev letter of 14.03.2013.doc

To: Aysegul Olcar-Chamberlin,  
Planning Officer,  
London Borough of Camden.

Dear Aysegul Olcar-Chamberlin,

**Re: Planning Application: 39 Whitfield Street, W1. ref: 2013/4267/P**

Please find attached the following:

- (a). Our Association's letter of objection dated 15th August 2013, regarding the above planning application.
- (b). Our MAP showing Residential, which we refer to in our letter.
- (c). Our Association's **previous** letter dated 14th March 2013, which we also refer to in our letter; (this is the previous letter which Camden did not receive at the time due to our email address being hacked).

On Camden's planning website, 15th August 2013 is given as the date for comments on this application. I telephoned you last week, and found that you were on leave until today. Thus, I trust that our enclosed letter of objection is still acceptable in terms of being considered and included in your report.

There have currently been several main planning and licensing applications in our area. But because it is August and the summer holiday period, we have been finding it a bit onerous to consider and complete our written representations in the time period.

If needed, I can be contacted on my mobile 07967 856 167.

Kind regards,

Clive Henderson,  
Committee Member,  
On behalf of Charlotte Street Association.

Copy: Gary Sollof, Chair/CSA.

# Charlotte Street Association

39 Tottenham Street  
London W1T 4RX  
email: [csafitzrovia@yahoo.co.uk](mailto:csafitzrovia@yahoo.co.uk)

Development Control,  
Planning Services,  
London Borough of Camden,  
Camden Town Hall, Argyle Street,  
London WC1H 8ND.

For the attention of Aysegul Olcar-Chamberlin.

**By email to: [planning@camden.gov.uk](mailto:planning@camden.gov.uk)**  
*(4 pages, plus 1 Map; plus previous letter of 14.3.2013)*

15<sup>th</sup> August 2013

Dear Ms. Olcar-Chamberlin,

**Re: ref. 2013/4267/P: 39 Whitfield Street, London W1T 2SF**

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Variation of Condition 5 (permitted opening hours),  
of planning permission granted on 9/7/2010 (ref. 2009/1660/P for change of use  
from A1 to A3) at Basement and Ground Floor levels,  
namely the extension of (the terminal hour of) the opening hours from 23.30 to 00.30  
(the following day) Monday to Saturday.

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There is very strong objection to the proposal to vary the hours, so that the closing times  
for the A3 Use:

would be half-past midnight for Monday to Saturday, instead of 11.30pm (23.30hours);  
because these changes in the terminal hours beyond 11.30pm for 6 days of the week are  
very likely to be detrimental to the residential amenity of the extensive nearby residential  
uses which are very close to these premises.

Previous planning application of 2009; and Appeal decision of 2010:

Our Association objected to the original planning application in 2009 for Change-of-Use  
from A1 to A3 because of our concern of the likely detrimental affect to residential amenity;  
(the application was made by the owner of the building, not by Dabbous the current  
tenant). Camden refused this Change of Use.

We supported Camden's refusal at the subsequent Planning Appeal, which we attended  
and made representations (Appeal: Informal Hearing, June 2010).

Although the Appeal Decision (decision date 9 July 2010; appeal ref. APP/X5210/A/10  
/2124621) granted the Change of Use to A3 use, the Inspector did set down particular  
Conditions, including the hours condition, to protect the amenity of the nearby residential.

*Continued to page 2*

In so doing, his Appeal decision says (para 30): *“To protect the living conditions of nearby residents, hours of use have been restricted such that no customers shall be present on the premises outside of these hours, ensuring that there is minimal additional disturbance to residents outside of the specified periods.”*

Considering that the Change of Use was granted with these particular conditions, we think that it is very important that they are not changed to ensure that the residential amenity in terms of quietness after 11.30pm continues to be protected.

Planning Application earlier this year: February/March 2013 (ref. 2013/0771/P):

Earlier this year, the applicant submitted a planning application (ref. 2013/0771/P) for a similar Variation of Condition 5 but for a later terminal hour etc than the current application. Camden refused that application.

(Note: The address given for that application is 39 Whitfield Street and 24-25 Scala Street. This is exactly the same premises as the current application even though the current application’s address is only given as 39 Whitfield Street. Because the building is on the corner of Whitfield Street/Scala Street, it is sometimes referred to by both names.)

*The Charlotte Street Association did object to this Planning Application of earlier this year (ref. 2013/0771/P). We only discovered much later (after one of our Committee Members read the Officer’s Report some 2 or 3 weeks later) that our Association’s letter dated 14<sup>th</sup> March 2013 had not been received by Camden.*

*On further investigation, we found that CSA’s Yahoo email address was being “blocked” by Camden’s IT system. At that time, our email address had been hacked, and had sent out spam emails to everyone on our address list including to Camden. Unknown to us, Camden’s IT system had then automatically “blocked” our email address as “spam”. It took us another 2 or 3 weeks talking to Camden’s IT section to get our email address unblocked. (My own personal Yahoo email address was similarly hacked, and then subsequently “blocked” by Camden at that time).*

Thus, for the record, we enclose a copy of our letter of objection dated 14<sup>th</sup> March 2013 relating to the Application of earlier this year.

Residential:

As will be seen from our **enclosed Map**, there is residential nearby both in Scala Street and in Whitfield Street, containing a diverse range of residents, reflecting the community in Fitzrovia:

- (a). The south side of Scala Street is wholly residential consisting of a Georgian terrace of small houses directly onto the street, some of which are still single family houses. This includes No. 23 Scala Street, which adjoins the applicant’s premises, and is a single family house, occupied by a local family over several generations. The small scale wholly residential nature of this terrace in this quiet street is now a relative rarity in Fitzrovia, that needs to be protected.
- (b). In Whitfield Street, diagonally opposite the applicant’s premises, is Percy Buildings, a whole residential block of flats (belonging to Camden) which includes families. At the Whitfield Street/Tottenham Street corner/junction, there are further residential flats above ground floor, including Camden flats in the terraced block on the north side.

*Continued to page 3*

The nature of residential amenity in Fitzrovia:

In a mixed-use area such as Fitzrovia, it is really important that A3 restaurant use does not impinge into every street, or quiet backwater, (as in now happening in Fitzrovia) so that the residential amenity is not further eroded, and does not undermine the diversity of people being able to continue to live in Fitzrovia. Regardless of conditions that are imposed, we know from long experience that such A3 uses inevitably, by their very nature, eat away at the existing residential amenity.

Both Scala Street and this part of Whitfield Street are relatively quiet in the evenings and at weekends (especially Sundays). Although mixed-use side streets in Fitzrovia may be busy during the daytime, it is this relative quietness in the evenings that enables the residential community to continue to live here. In this case, if these hours are extended for the A3 use, this subtle balance will be upset very much to the disadvantage of the residents.

The issue for residents in Fitzrovia is the terminal hour when customers leave restaurants. However well managed a restaurant is, even small groups of customers inevitably cause noise and disturbance, to nearby residential, when they leave, hang around for a time and chat, which is particularly noticeable to residents in the evenings when the background noise level is low, as in this instance of Scala Street/Whitfield Street.

Such inevitable disturbance might be acceptable up to 11.30pm, but, from our long term experience of the area, it is quite unacceptable for residential amenity (and the expectation of quietness and undisturbed sleep) after 11.30pm/midnight for any day of the week.

There are examples of long established restaurants in the immediate area that do also close at 11.30pm, including two family-run restaurants, where the restaurateurs live with their families above the premises.

Current restaurant (Dabbous):

When Dabbous took on the lease for these premises and applied for a Premises Licence, we were concerned that a highly-publicised upmarket/prestige restaurant such as Dabbous would want to apply for longer hours, as has now happened. Obviously, when they took on the lease, they knew the time restrictions.

(Incidentally, when I attended their previous pre-application open evening meeting in November 2012, they told me that the rent they pay for the premises is lower than normal due to the restrictions).

Even though it is a well-thought-of and well-managed restaurant, nonetheless there is the inevitable disturbance for residents when customers leave as described above.

Taxis:

Also, patrons to such prestige restaurants tend to use taxis much more, as has in fact happened in this case, instead of using public transport (despite it being plentiful in this area). In fact, we understand that Dabbous provide a taxi service for customers. Residents in Scala Street have been particularly disturbed by the amount of taxi traffic in the evenings serving this restaurant. Granting extended hours will exacerbate the problem for residents at the much later hours.

*Continued to page 4*

In addition, there have also been the noise disturbance whereby car-drivers wait in parked cars with engines running in Scala Street, whilst their employers/patrons have their meals.

Smokers outside:

The suggestion of smokers being restricted to Whitfield Street means that the nearby Whitfield Street residential flats will be disturbed, especially after 11.30pm/midnight when this part of the area is relatively even quieter.

I myself quite often walk through Scala/Whitfield Streets late at night (upto about 11.30pm), and have noticed customers smoking and talking outside the restaurant both in Whitfield Street and Scala Street, as well as staff members doing so at west end of Scala Street. What is surprising is that the talking does often sound so noticeably loud because, at that time of the late evening, the background noise level of the street is so low and quiet. This type of disturbance will be more noticeable to residents at the later time after midnight.

Bar in basement:

The A3 Use applies to both the Ground Floor and the Basement. Thus, we are concerned about the current Bar use in the basement. The Ground Floor restaurant has 35 covers, but the basement Bar has 50 and more covers.

The licensing conditions in the Premises Licence requires that alcohol in the Basement bar is only served to customers who have a reservation for a table meal upstairs, or who have already eaten there. We are not entirely convinced, (including looking at their website), that this condition is being applied. In practise, the Bar appears almost as a separate operation, and is called Oskar's Bar, run by Oskar Kinberg. The bar usually seems to be exceptionally full and busy. This could be much more of a problem with the proposed change in hours, especially the impact on residents when customers are leaving at the much later hour after midnight. The problem also with a Bar, compared with restaurant activity, is that there is more concentration of customers who stay till closing time and then leave in much larger numbers.

Conclusion:

For all the above reasons, we urge that this application be refused.

The A3 Use was only allowed on Appeal with Conditions of the restricted hours, in order to protect the residential amenity for all days of the week. The proposed extension of the terminal hours to well after midnight will completely undermine this protection for the nearby residential.

Yours sincerely,

Clive Henderson,  
Committee Member,  
On behalf of Charlotte Street Association.

**Enclosed:** (1). MAP showing Residential. (2). CSA's previous letter of 14<sup>th</sup> March 2013.

Copy: CSA Committee.  
Cllr Adam Harrison.



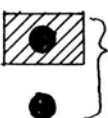
From: Charlotte Street Association

July 2011

**MAP SHOWING BUILDINGS WITH RESIDENTIAL**

**Re: Licensing Act 2003: Application for New Premises Licence:  
DABBOUS, 39 Whitfield Street, W1T 2SF**

Reference: APP\PREMISES-NEW\001039

and:  (back dot & hatched) = indicates each building with RESIDENTIAL;  
(in most instances, the buildings are divided into flats).

# Charlotte Street Association

39 Tottenham Street  
London W1T 4RX  
email: [csafitzrovia@yahoo.co.uk](mailto:csafitzrovia@yahoo.co.uk)

Development Control,  
Planning Services,  
London Borough of Camden,  
Camden Town Hall, Argyle Street,  
London WC1H 8ND.

**For the attention of Nicola Tulley.**

14<sup>th</sup> March 2013

Dear Ms Tulley,

**Re: ref. 2013/0771/P: 39 Whitfield Street and 24-25 Scala Street, London W1**

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- (1). Variation of Condition 5 (opening hours) namely the extension of (the terminal of) the opening hours from 23.30 to 01.30 (the following day) Monday to Saturday, and from 22.30 to 1.30 (the following day) on Sunday.
  - (2). Variation of Condition 7 (hours of operation of equipment/plant): automatic time clocks for non-use of the equipment/plant to be reduced from 22.30 - 09.00 to 01.30 - 09.00.
- 

There is very strong objection to the proposal to vary the hours, so that the closing times for the A3 Use:

- (a). would be 1.30am for Monday to Saturday, instead of 11.30pm (23.30hours); and
- (b). would be 1.30am for Sunday, instead of 10.30pm (22.30 hours);

because these changes in the terminal hours beyond 11.30pm on weekdays (and beyond 10.30pm on Sundays) are very likely to be detrimental to the residential amenity of the extensive nearby residential uses which are very close to these premises.

For similar reasons, we also object to the related proposed changes to the times for the equipment/plant.

Previous planning application and Appeal decision:

Our Association objected to the original planning application in 2009 for Change-of-Use from A1 to A3 because of our concern of the likely detrimental affect to residential amenity; (the application was made by the owner of the building, not by Dabbous the current tenant). Camden refused this Change of Use.

We supported Camden's refusal at the subsequent Planning Appeal, which we attended and made representations (Appeal: Informal Hearing, June 2010).

Although the Appeal Decision (decision date 9 July 2010; appeal ref. APP/X5210/A/10 /2124621) granted the Change of Use to A3 use, the Inspector did set down particular Conditions, including the hours condition, to protect the amenity of the nearby residential.

*Continued to page 2*

In so doing, his Appeal decision says (para 30): *“To protect the living conditions of nearby residents, hours of use have been restricted such that no customers shall be present on the premises outside of these hours, ensuring that there is minimal additional disturbance to residents outside of the specified periods.”*

Considering that the Change of Use was granted with these particular conditions, we think that it is very important that they are not changed to ensure that the residential amenity in terms of quietness after 11.30pm/midnight continues to be protected.

#### Residential:

As will be seen from our enclosed **Map**, there is residential nearby both in Scala Street and in Whitfield Street, containing a diverse range of residents, reflecting the community in Fitzrovia:

- (a). The south side of Scala Street is wholly residential consisting of a Georgian terrace of small houses directly onto the street, some of which are still single family houses. This includes No. 23 Scala Street, which adjoins the applicant's premises, and is a single family house, occupied by a local family over several generations. The small scale wholly residential nature of this terrace in this quiet street is now a relative rarity in Fitzrovia, that needs to be protected.
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#### The nature of residential amenity in Fitzrovia:

In a mixed-use area such as Fitzrovia, it is really important that A3 restaurant use does not impinge into every street, or quiet backwater, (as in now happening in Fitzrovia) so that the residential amenity is not further eroded, and does not undermine the diversity of people being able to continue to live in Fitzrovia. Regardless of conditions that are imposed, we know from long experience that such A3 uses inevitably, by their very nature, eat away at the existing residential amenity.

Both Scala Street and this part of Whitfield Street are relatively quiet in the evenings and at weekends (especially Sundays). Although mixed-use side streets in Fitzrovia may be busy during the daytime, it is this relative quietness in the evenings that enables the residential community to continue to live here. In this case, if these hours are extended for the A3 use, this subtle balance will be upset very much to the disadvantage of the residents.

The issue for residents in Fitzrovia is the terminal hour when customers leave restaurants. However well managed a restaurant is, even small groups of customers inevitably cause noise and disturbance, to nearby residential, when they leave, hang around for a time and chat, which is particularly noticeable to residents in the evenings when the background noise level is low, as in this instance of Scala Street/Whitfield Street.

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*Continued to page 3*



of quietness and undisturbed sleep) after 11.30pm/midnight for any day of the week.

There are examples of long established restaurants in the immediate area that do also close at 11.30pm, including two family-run restaurants, where the restaurateurs live with their families above the premises.

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Taxis:

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In addition, there have also been the noise disturbance whereby car-drivers wait in parked cars with engines running in Scala Street, whilst their employers/patrons have their meals.

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*Continued to page 4*

Conclusion:

For all the above reasons, we urge that this application be refused.

The A3 Use was only allowed on Appeal with Conditions of the restricted hours, in order to protect the residential amenity for all days of the week. The proposed extension of the terminal hours to well after midnight will completely undermine this protection for the nearby residential.

Yours sincerely,

Clive Henderson,  
Committee Member,  
On behalf of Charlotte Street Association.

Copy: CSA Committee.  
Cllr Adam Harrison.