**Section 18(6) Licensing Act 2003, Application by Galiyeva Ltd for a premises licence in respect of 9-11 Tottenham Street, Application Reference 104260**

**Relevant Representation of Marnix Elsenaar**

1. My name is Marnix Elsenaar. I live at Flat 3, 13 Tottenham Street, London. I have lived there for over ten years.
2. I strongly object to the application (**Application**) for a premises licence (**Licence**) made in respect of 9-11 Tottenham Street (**Premises**) on the ground that the activities in respect of which the licence is made will result in a public nuisance, cause crime and disorder and be contrary to the London Borough of Camden's (**Camden**) licensing objectives. This is a relevant representation under section 18(6) of the Licensing Act 2003.

**The Premises**

1. When I moved to my flat in 2010, the Premises were a Sports Direct shop. The Premises then became a café selling tea, coffee and cake with the tenant being "Yumcha". It was never particularly busy and closed around 6pm. Two years or so ago it was replaced by Coco di Mama. Coco di Mama is primarily a take-away food and soft drink establishment serving office workers at lunchtime. It is closed in the evening.
2. The Premises is a large unit. It extends a long way back and the rear of the unit is covered by a glass roof which fills the courtyard between the rear of 9-11 Tottenham Street and the adjoining premises which front Whitfield Street. The homes above the Premises look over the glass roof of the rear of the Premises and over Tottenham Street.

**The Application**

1. The application describes the Premises as a restaurant. It is certainly not a restaurant at the moment. The Premises have, I believe, been trading on the basis of a planning permission for an A1 use.
2. The Proposed Licensing Plan, that forms part of the Application, shows the proposed layout of the Premises. The plan shows "cinema seats", "high tables", "drapes" and a "chandelier". This suggests that the Premises will be more in the nature of a late-night drinking establishment than a quiet restaurant. The plan also shows an outside seating area.
3. The Application form seeks a licence to serve "hot food or drinks only between 11pm and 5am". The document that accompanies the application proposes a closing time of midnight from Monday to Thursday, 12.30am on Friday and Saturday and 11pm on Sunday. It seeks a licence to serve alcohol until 23.30 from Monday to Thursday, until Midnight on Friday and Saturday and 10.30pm on Sunday.
4. The application proposes a number of conditions:
   1. Condition 19 requires the licence holder to ensure that any queue that forms outside the Premises is orderly so as to ensure it does not cause a nuisance or obstruction of the highway.
   2. Condition 21 provides for deliveries to take place only between 8am and 11pm Monday to Sunday;
   3. Condition 26 proposes a maximum capacity of 120 people excluding staff.

**Camden Statement of Licensing Policy 2017-2022 (Licencing Policy)**

1. The Licensing Policy sets out Camden's licensing objectives. These include:
   1. The prevention of crime and disorder.
      1. Paragraph 4.32 states "crime and disorder near the premises: this may include the risk of crime and disorder arising from persons queuing to enter the premises, persons existing the premises and customers smoking, eating or drinking in outdoor areas and on the highway outside the premises".
   2. The need to ensure public safety.
   3. That activities should not cause a public nuisance.
      1. Paragraph 4.38 states that "We expect the operation of licensed premises not to unreasonably interfere with the personal comfort or amenity of immediate neighbours or the nearby community".
      2. Paragraph 4.41 provides examples of the possible causes of public nuisance. It includes "customer noise" which is defined as taking many forms but notes that the following are of particular concern:

* customers queuing to enter or leave premises;
* customers loitering outside the premises waiting for transport
* alcohol-related drunken behaviour and shouting
* customers eating, drinking or smoking in eternal areas […] and other open areas adjacent to the premises;
* car horns/car radios/slamming of car doors late at night in the vicinity of licensed premises.
  + 1. Other causes of nuisance referred to by Paragraph 4.41 include:
* litter/waste generated by the carrying out of licensable activities, for example food wrappers and cigarette butts.
* obstruction: customers blocking footpaths when eating, drinking and smoking near to the premises.
* noise from plant and machinery, including air conditioning units, refrigeration units and kitchen extractors.

**Fitzrovia Area Action Plan (AAP)**

1. The *Fitzrovia Area Action Plan 2014* describes Fitzrovia's character as including (page 16):
   1. a mix of residential, commercial and institutional uses;
   2. a contrast between busy commercial streets and quieter, more residential streets;
2. Page 22 of the plan notes that "Fitzrovia is home to a considerable residential population […] The area also attracts a large influx of workers, students and visitors each day to its offices, academic institutions and shops, and in the evening to the bars, restaurants, cinema and other entertainment establishments. Workers, students and visitors are critical to the vitality and economic success of the area […]. Furthermore, high levels of activity, particularly in the evening, can be damaging to the amenity and quality of life of those living in Fitzrovia"
3. Principle 5 of the AAP states that "The Council will guide development of food, drink and entertainment uses to the Central London Frontage on Tottenham Court Road and New Oxford Street except those that the Council considers to be small scale and low impact".
4. On page 49 the AAP states "Given the existing concentrations of food, drink and entertainment uses and the high residential density the potential for further development of this type in the Plan area is relatively limited".
5. On page 50, the AAP states "Licensing decisions are guided by public safety, the protection of children and the prevention of public nuisance, crime and disorder".
6. Principal 9 provides that the Council will have regard to the particular impacts on residential amenity that arise from the dense mix of land uses in Fitzrovia and will seek:

* a good standard of amenity for all existing and future occupants of land and buildings; and
* to prevent cumulative harm to residential amenity from noise, mechanical ventilation, light pollution, deliveries and waste collection.

**Camden Planning Guidance – Town Centres and Retail, January 2021**

1. Paragraph 3.59 of *Camden's Planning Guidance – Town Centres and Retail*, which sets out policy relating to food, drink and entertainment uses in Fitzrovia states "the fine grain of development with housing throughout the area means that it is sensitive to negative impacts of food, drink, and entertainment uses, such as noise in the evenings. To minimise impacts on local residents and to maintain a mix of uses across the area food, drink and entertainment uses should not dominate the protected retail frontages, and clusters should be avoided. New food, drink, or entertainment uses outside of the designated frontages will only be permitted where they do not harm to the residential amenity of the area".

**Tottenham Street**

1. Tottenham Street is a quiet road. The Premises are located within a residential block – Maxclif House and 13 Tottenham Street. This is not a commercial development that includes some residential units – it is a residential property occupied by people who have lived there for many years with some commercial units at ground floor. The opposite side of the street is also residential with some commercial units at ground floor. This a place where people live, where they have their homes. Our block does not consist of pieds a terre that are only use occasionally. My lounge and bedroom windows face onto Tottenham Street.
2. While the general area is busy and lively during the day, it is quiet in the evenings and at weekends. The Penny Drop café, on the corner of Whitfield Street and Tottenham Street closes at 6pm, The Hope Pub, on south-west corner of Whitfield Street and Tottenham Street is a quiet pub that mainly attracts an after-work crowd. It is extremely quiet at weekends and is usually closed on Sunday evenings. Opposite the Premises is Hiba, which provides mainly take-away food and has a small number of tables for eating in. It is a very small unit and does not cause a nuisance. To its right is a newsagent and to its left an optician. On the north west corner of Whitfield Street and Tottenham Street is Gigs Fish and Chips restaurant; a local institution which has a small number of seats for eating in and which neither attracts crowds nor results in noise.
3. The Premises themselves have most recently been occupied by Coco di Mama which, again, is closed in the evenings and attracts mainly lunchtime customers.
4. In short, there is an acceptable balance between the commercial and residential uses.

**The impact of the Application on residents**

1. It is beyond doubt that, if granted, the Licence will have a significant, adverse impact on the residents of Tottenham Street, on our ability to have a good night's sleep, on our ability to read, watch television, enjoy our homes, without significant noise and nuisance and we are all deeply upset by the Application. It will result in a step-change in the nature of activities on the street and I describe the impacts in the following paragraphs.

***Noise, crime and disorder and public safety***

1. The Premises is a very large unit. The number of people it will attract (up to 120 at one time) is very significant. The service of alcohol will turn the Premises into a major entertainment venue; inevitably as people become more intoxicated they will create more noise. I hate to think what noise levels will be like with up to 120 people inside. The noise will travel up through the building to reach the homes above, as well as via the front door, windows and the "conservatory" at the back of the building.
2. How will people arrive at and leave the Premises? While some will travel by public transport, it is reasonable to expect that a significant number will travel by taxi or uber. This will result cars waiting outside sometimes with engines running, doors slamming and people talking loudly and shouting while waiting for their vehicle to arrive.
3. Smoking is not allowed inside bars and restaurants. Inevitably there will be people, in groups, standing outside the Premises smoking and talking. This will result in the smell of cigarette smoke reaching our homes and the noise of people talking and shouting causing a nuisance. Cigarette butts will be discarded in the street.
4. The Application envisages that there will be queues of people waiting to enter the Premises. Those people will not wait in silence. They may already be intoxicated having been at another bar before arriving at the Premises. They will shout and make considerable noise thereby disturbing residents on both sides of the street. How will it be possible to get to sleep, and stay asleep, when there are people standing in the street causing what will clearly be a public nuisance? The people queuing will block the pavement, causing an obstruction and having an adverse impact on public safety in breach of Camden's licensing objectives.
5. The licencing authority will note that the Premises are diagonally opposite the newly redeveloped Whitfield Gardens at which "picnic tables" and new seats have been installed. This provides space for people visiting the Premises to congregate, to drink alcohol and to "continue the party" before or after visiting the Premises. This would cause a major public nuisance and result in unacceptable cumulative impacts in breach of Camden's licensing objectives. The licensing authority should note that, shortly before Christmas, the residents of Tottenham Street had to call the police on two successive evenings because of a party being held in Whitfield Gardens, just opposite the Premises, that resulted in a major public order incident. The police eventually dispersed the residents but not after I had had to encounter people urinating in the doorway of our building and had the evenings disturbed by the incredible noise levels. The Gardens were left full of rubbish and broken glass that Council staff had to clear up the next day.
6. The Application proposes that deliveries will occur every day of the week, including Sundays, from early in the morning until late in the evening that will cause noise and disturbance – affecting sleep and the comfort and amenity of residents.

***Vibrations***

1. We already suffer from noise and vibrations in our homes from air conditioning plant that has been attached to the back of the building some of which is left on overnight. The Licence will extend the hours that such plant is operational resulting in disturbance to sleep and distress to the residents.

**Camden's licensing objectives**

1. The impacts described are demonstrably not compatible with Camden's licensing objectives. The activities described will infringe paragraph 4.38 of the licensing objectives and unreasonably interfere with the personal comfort and amenity of neighbours and the nearby community. It will turn what is a quiet residential street into a destination for those seeking a night out.
2. I have described the activities that will cause a public nuisance: noise from customers, noise from plant, noise from collections, litter and waste as well as the blocking of the pavement, the congregation of groups of people and the resulting impact on public safety.

**Planning policy**

1. While the licensing and planning control regimes are separate, Camden should have regard to its development plan and aims and objectives for the Borough in its decision making. This representation does not set out an exhaustive list of relevant planning policies but I have set out relevant paragraphs of the AAP and the Town Centres and Retail Guidance that make it clear that Camden will support new licensed premises in very limited parts of Fitzrovia, such as parts of New Oxford Street and the Central London Frontage of Tottenham Court Road and that new food and drink uses will only be supported where they will not harm the residential amenity of the area. It is clear that the Licence, if granted, will cause very significant harm to the residential amenity of the residents of Tottenham Street.

**Request**

1. I ask that the Application is refused.
2. I should be grateful if you would notify me of any hearing that is held to consider the Application.

**Marnix Elsenaar**

**17 March 2021**