

**IMPORTANT - THIS COMMUNICATION AFFECTS YOUR PROPERTY**

**TOWN AND COUNTRY PLANNING ACT 1990**  
**(as amended by the Planning and Compensation Act 1991)**

**BREACH OF CONDITION NOTICE**

**SERVED BY: LONDON BOROUGH OF CAMDEN (“the Council”)**

**TO: Lumi Café**  
**82 Camden High Street**  
**London**  
**NW1 0LT**

**1. THIS NOTICE** is served by the Council under section 187A of the above Act, because they consider that a condition imposed on a grant of planning permission, relating to the land described in paragraph 2 below, has not been complied with. The Council consider that you should be required to comply with the conditions specified in this Notice. The Annex at the end of this notice contains important additional information.

**2. THE LAND TO WHICH THE NOTICE RELATES**

Land at: **82 Camden High Street, London NW1 0LT** shown edged black on the attached plan.

**3. THE RELEVANT PLANNING PERMISSION**

**The relevant Planning Permission to which this Notice relates is the planning permission** Ref: **2022/3459/P** dated 14/10/2022 for Minor Material Amendment (S73) to amend Condition 2 (Approved plans) of ref: 2021/3936/P dated 07/07/2022 for 'Retrospective application to change the use of the ground and basement unit from a mixed A1 (retail), A3 (cafe) and A4 (bar) Sui Generis use to Class E (b) and retention of air-conditioning unit on the rear at first floor level and a cooking extract grille at the rear.'

**4. THE BREACH OF CONDITION**

The following conditions have not been complied with:

**Condition 2** of the planning permission namely: The external noise level emitted from plant, machinery or equipment at the development hereby approved shall be lower than the lowest existing background noise level by at least 10dBA, by 15dBA where the source is tonal, as assessed according to BS4142:2014 at the nearest and/or most affected noise sensitive premises, with the machinery operating at maximum capacity.

**Reason:** To ensure that the amenity of occupiers of the development site/ surrounding premises is not adversely affected by noise from mechanical installations/ equipment in accordance with the requirements of policies A1 and A4 of the London Borough of Camden Local Plan 2017.

**Condition 6** of the planning permission namely: Within two months of the date of the installation of the extract flue and plant, a post-completion report shall be submitted demonstrating compliance with the above conditions, namely:

- a) that the flue and plant has been installed in accordance with the approved details and plans, and on what date; and
- b) that the mitigation measures have been installed in accordance with the approved details and plans, and conditions 3 and 4 of this permission; and
- c) that the noise from the plant complies with condition 2 of this permission

**Reason:** To ensure that the amenity of occupiers of the development site and surrounding premises is not adversely affected by noise, vibration and odour in accordance with the requirements of policies A1 and A4 of the London Borough of Camden Local Plan 2017.

**The condition has been breached in that:**

- 1. The flue and plant equipment and the café restaurant are in operation before validation tests and details have been approved by the local planning authority.

**5. WHAT YOU ARE REQUIRED TO DO**

As the person responsible for the breach of conditions specified in Paragraph 4 of this Notice, you are required to comply with the stated conditions by taking the following steps:-

- 1. Cease the operation of the plant, machinery and equipment until an updated noise validation test is submitted to and approved in writing by the local planning authority demonstrating that the plant, machinery and equipment has been installed in accordance with the approved details and the noise level from any plant and equipment, together with any associated ducting or vents, is be 15 dB(A) or more below the lowest relevant measured LA90 (15min) at the nearest noise sensitive premises. The method of assessment is to be in accordance with BS4142:2014.

**Period for compliance:**

**Twenty-eight (28) days** from the receipt of this notice.

**6. WHEN THIS NOTICE TAKES EFFECT.**

This notice takes effect immediately it is served on you or you receive it by postal delivery.

Dated: **15 August 2023**



(Signed).....

**Chief Planning Officer, Supporting Communities on behalf of the London Borough of Camden, Town Hall, Judd Street, London WC1H 8JE**

**ANNEX**

**WARNING**

**THIS NOTICE TAKES IMMEDIATE EFFECT ONCE IT IS SERVED ON YOU IN PERSON OR ON THE DAY YOU RECEIVED IT BY POST.**

**THERE IS NO RIGHT OF APPEAL TO THE SECRETARY OF STATE FOR THE ENVIRONMENT AGAINST THIS NOTICE.**

It is an offence to contravene the requirements stated in paragraph 5 of this notice after the end of the compliance period. You will then be at risk of immediate prosecution in the Magistrates' Court, for which the maximum penalty is £2,500 for a first offence and for any subsequent offence. If you are in doubt about what this notice requires you to do, you should get in touch immediately with the Council's nominated office to deal with enquiries:

Joshua Cheung  
Joshua.cheung@camden.gov.uk  
0207-974-3383

Appeals and enforcement  
Supporting Communities  
Regeneration and Planning  
Development Management  
London Borough of Camden  
Town Hall  
Judd Street  
London  
WC1H 9JE

If you need independent advice about this notice, you are advised to contact urgently a lawyer, planning consultant or other professional adviser specialising in planning matters. If you wish to contest the validity of the Notice, you may only do so by an application to the High Court for judicial review.

**DO NOT LEAVE YOUR RESPONSE TO THE LAST MINUTE.**

## Explanatory Note

Section 187A of the Town & Country Planning Act 1990 Breach of Condition Notices states:

"Section 187A. Enforcement of Conditions.

(1) This section applies where planning permission for carrying out any development of land has been granted subject to conditions.

(2) The local planning authority may, if any of the conditions is not complied with, serve a notice (in this Act referred to as a 'breach of condition notice' on -

(a) any person who is carrying out or has carried out the development ; or

(b) any person having control of the land,

requiring him to secure compliance with such of the conditions as are specified in the notice.

(3) References in this section to the person responsible are to the person on whom the breach of condition notice has been served.

(4) The conditions which may be specified in a notice served by virtue of subsection (2) () are any of the conditions regulating the use of the land.

(5) A breach of condition notice shall specify the steps which the authority consider ought to be taken, or the activities which the authority consider ought to cease, to secure compliance with the conditions specified in the notice.

(6) The authority may be notice served on the person responsible withdraw the breach of condition notice, but its withdrawal shall not affect the power to serve on him a further breach of condition notice in respect of the conditions specified in the earlier notice or any other conditions.

(7) The period allowed for compliance with the notice is -

(a) such period of not less than twenty-eight days beginning with the date of service of the notice as may be specified in the notice ; or

(b) the period as extended by a further notice served by the local planning authority on the person responsible.

(8) If, at any time after the end of the period allowed for compliance with the notice

(a) any of the conditions specified in the notice is not complied with; and

(b) the steps specified in the notice have not been taken or, as the case may be, the activities specified in the notice have not ceased,

the person responsible is in breach of the notice.

(9) If the person responsible is in breach of the notice he shall be guilty of an offence.

(10) An offence under subsection (9) may be charged by reference to any day or longer period of time and a person may be convicted of a second or subsequent offence under that subsection by reference to any period of time following the preceding conviction for such an offence.

(11) It shall be a defence for a person charged with an offence under subsection (9) to prove -

(a) that he took all reasonable measures to secure compliance with the conditions specified in the notice ; or

(b) where the notice was served on him by virtue of subsection (2) (), that he no longer had control of the land.

(12) A person who is guilty of an offence under subsection (9) shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(13) In this section -

(a) 'conditions' includes limitations; and

(b) references to carrying out any development include causing or permitting another to do so).

