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: 529A Finchley Road
London
NW3 7BG

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: **529A Finchley Road, London, NW3 7BG** 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 2017/5382/P .

4. THE BREACH OF CONDITION

The following condition has not been complied with:

Condition 6 of the planning permission namely:

> "Prior to the commencement of the ground floor unit, details of the sound insulation of the floor/ceiling/walls separating the fitness area and retail area from adjacent residential uses shall be submitted to and approved in writing by the local planning authority. Such details shall demonstrate that the sound insulation value DnT,w and L'nT,w is enhanced by at least 10dB above the Building Regulations value and include such mitigation measures as necessary in order to achieve the 'Good' criteria of BS8233:1999 within the dwellings.
>
> The details as approved shall be implemented prior to first occupation of the community facility and thereafter be permanently retained."

Reason: To safeguard the amenities of the adjoining premises and the area generally 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 use has now commenced and no noise insulations details have been submitted to the Council.

5. WHAT YOU ARE REQUIRED TO DO

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

1. The details of the sound insulation of the floor/ceilings/walls separating the fitness and retail area from adjacent residential uses as required by condition 6 shall be submitted to and approved by the Council.

2. The approved details shall be implemented as such and permanently retained.

Period for compliance:-

Thirty (30) 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: 6th June May

David T. Joyce

(Signed).....

Head of service, Supporting Communities, Regeneration and Planning 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:

Maeve. Wylie@camden.gov.uk
0207-974-8780

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, buts 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

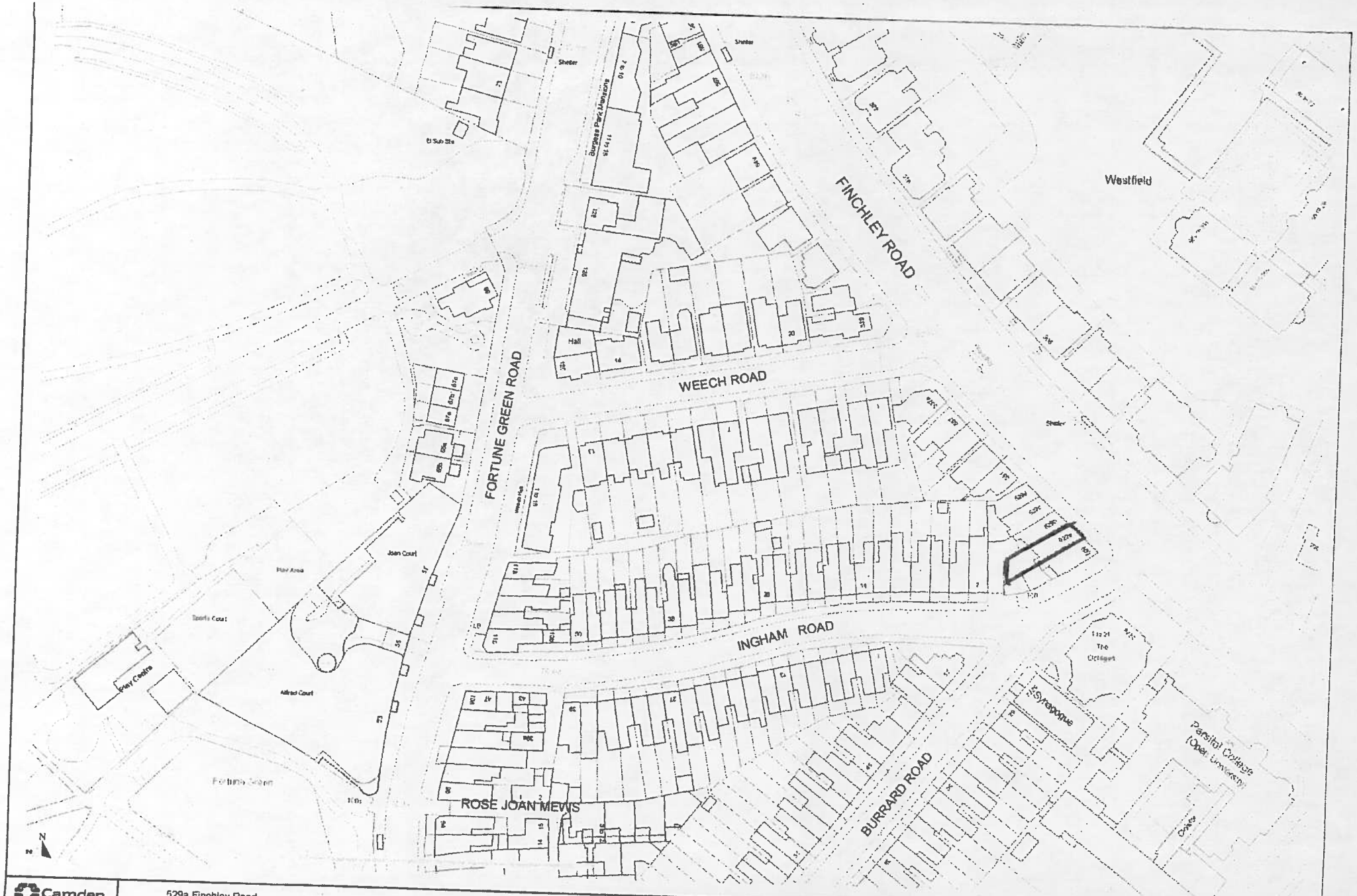
(b) where the notice was served on him by virtue of subsection (2) (), that he no longer had control of the land.

(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).



Camden

529a Finchley Road

Date 11/5/2016

Scale 1/866

Camden

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

Tel 020 7974 4444

planning@camden.gov.uk
www.camden.gov.uk/planning

Mr Daniel Herman
82 Brim Hill
N2 0EY

Application Ref: **2017/5382/P**
Please ask for: **Samir Benmbarek**
Telephone: 020 7974 **2534**

6 February 2018

Dear Sir/Madam

DECISION

Town and Country Planning Act 1990 (as amended)

Full Planning Permission Granted

Address:
529A Finchley Road
London
NW3 7BG

Proposal: Change of use of ground floor retail unit (Use A1) to retail and fitness studio (sui generis use).

Drawing Nos: Unnumbered Location Plan (OS Extract); 160405-529; Email from Daniel Herman dated 12th January 2018.

The Council has considered your application and decided to grant permission subject to the following conditions:

Conditions and Reasons:

1 The development hereby permitted must be begun not later than the end of three years from the date of this permission.

Reason: In order to comply with the provisions of Section 91 of the Town and Country Planning Act 1990 (as amended).

2 All new external work shall be carried out in materials that resemble, as closely as possible, in colour and texture those of the existing building, unless otherwise specified in the approved application.

Reason: To safeguard the appearance of the premises and the character of the immediate area in accordance with the requirements of policy D1 of the London Borough of Camden Local Plan 2017.

3 The development hereby permitted shall be carried out in accordance with the following approved plans: Unnumbered Location Plan (OS Extract); 160405-529; Email from Daniel Herman dated 12th January 2018.

Reason: For the avoidance of doubt and in the interest of proper planning.

4 No music shall be played on the premises in such a way as to be audible within any adjoining premises or on the adjoining highway.

Reason: To safeguard the amenities of the adjoining premises and the area generally in accordance with the requirements of policies A1, A4, and TC3 of the London Borough of Camden Local Plan 2017.

5 The use hereby permitted shall not be carried out outside the following times 06:30-20:00 Mondays to Saturdays and 06:30-20:00 Sundays and Bank Holidays.

The roller shutters at the rear of the ground floor unit shall be kept closed at all times during those hours of use.

Reason: To safeguard the amenities of the adjoining premises and the area generally in accordance with the requirements of policies A1, A4 and TC3 of the London Borough of Camden Local Plan 2017.

6 Prior to the commencement of the ground floor unit, details of the sound insulation of the floor/ceiling/walls separating the fitness area and retail area from adjacent residential uses shall be submitted to and approved in writing by the local planning authority. Such details shall demonstrate that the sound insulation value DnT,w and L'nT,w is enhanced by at least 10dB above the Building Regulations value and include such mitigation measures as necessary in order to achieve the 'Good' criteria of BS8233:1999 within the dwellings.

The details as approved shall be implemented prior to first occupation of the community facility and thereafter be permanently retained.

Reason: To safeguard the amenities of the adjoining premises and the area generally in accordance with the requirements of policies A1 and A4 of the London Borough of Camden Local Plan 2017

Informatives:

1 No external alterations are proposed and as a result, there would be no harm to the

character and appearance of the host building or the surrounding area. The unit is not located within a designated town centre frontage or within a neighbourhood centre.

The proposal involves the change of use of 70sqm of A1 (retail) space into sui generis space with retail activity at the front of the unit and the rear to be operated as a fitness studio. The two uses would not be independent of each other with patrons of both uses using the same front entrance. Access to the fitness studio would be via the retail unit at the front.

Policy TC3 of Camden's Local Plan expects shops outside of designated retail centres to be retained and would only permit the loss of such if there is alterative provision nearby and there is evidence that the premises are not viable to continue as retail. Although there is a change of use from retail to sui generis, the proposal would still maintain retail activity at the front of the ground floor unit with an active frontage within the parade of commercial premises along Finchley Road. This would continue to support the character of the area. The sui generis use with the introduction of the fitness space at the rear alongside its retail operation is considered acceptable in land use terms in this context.

The applicant has provided details of the operation, patronage and logistics of the proposed unit. It has been confirmed that the gym space would be limited to 6x people at any given time. The expected catchment area is local and patrons would walk to the premises. Therefore, it is considered that there would be no significant impact upon transport, highways and local parking. The area of the gym element at the rear is small and therefore it is considered unlikely that the uses within would be intensive which would lead to consequent adverse impacts of noise in relation to neighbouring adjoining residential occupiers.

The applicant has stated that noise insulation will be installed to mitigate impacts of noise to adjoining residential occupiers. Noise insulation would be secured by condition upon approval. Further conditions will be imposed to restrict the hours of operation; ensure that music/noise generated by the gym use is not audible from within any adjoining properties, premises or highways and that the existing roller shutters will be kept locked to further ensure the amenity of adjoining residential occupiers is maintained. Overall, the proposed change of use is considered to not adversely impact upon neighbouring amenity.

Two objections in regards to the proposal were received prior to the determination of this application, which were duly noted. The planning history of the site and relevant appeal decision were taken into account when coming to this decision.

As such, the proposed development is in general accordance with policies A1, A4, D1 and TC3 of the London Borough of Camden Local Plan 2017. The proposed development also accords with Policy 13 of the Fortune Green & West Hampstead Neighbourhood Plan, the London Plan 2016 and the National Planning Policy Framework 2012.

2 Noise from demolition and construction works is subject to control under the Control of Pollution Act 1974. You must carry out any building works that can be

heard at the boundary of the site only between 08.00 and 18.00 hours Monday to Friday and 08.00 to 13.00 on Saturday and not at all on Sundays and Public Holidays. You are advised to consult the Council's Noise and Licensing Enforcement Team, Camden Town Hall, Judd St, Kings Cross, London NW1 2QS (Tel. No. 020 7974 4444 or search for 'environmental health' on the Camden website or seek prior approval under Section 61 of the Act if you anticipate any difficulty in carrying out construction other than within the hours stated above.

3 Your proposals may be subject to control under the Building Regulations and/or the London Buildings Acts that cover aspects including fire and emergency escape, access and facilities for people with disabilities and sound insulation between dwellings. You are advised to consult the Council's Building Control Service, Camden Town Hall, Judd St, Kings Cross, London NW1 2QS (tel: 020-7974 6941).

In dealing with the application, the Council has sought to work with the applicant in a positive and proactive way in accordance with paragraphs 186 and 187 of the National Planning Policy Framework.

You can find advice about your rights of appeal at:

http://www.planningportal.gov.uk/planning/appeals/guidance/guidancecontent

Yours faithfully

David T. Joyce

David Joyce
Director of Regeneration and Planning

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KS 0780 9929 4GB

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