

IMPORTANT - THIS COMMUNICATION AFFECTS YOUR PROPERTY**TOWN AND COUNTRY PLANNING ACT 1990 (AS AMENDED BY THE
PLANNING AND COMPENSATION ACT 1991)****ENFORCEMENT NOTICE****ISSUED BY: THE LONDON BOROUGH OF CAMDEN**

1. **THIS NOTICE** is issued by the Council because it appears to them that there has been a breach of planning control, within paragraph (b) of section 171A(1) of the above Act, at the land described below. They consider that it is expedient to issue this notice, having regard to the provisions of the development plan and to other material planning considerations. The Annex at the end of the notice and the enclosures to which it refers contain important additional information.

2. **THE LAND TO WHICH THE NOTICE RELATES**
Land at 51 Fairfax Road, London, NW6 4EN (**the property**) as shown edged black on the attached plan.

3. **THE BREACH OF PLANNING CONTROL ALLEGED**
 - 3.1. On 5 April 2016 the Council gave notice of its decision referenced 2015/3916/P to grant conditional planning permission for "change of use and subdivision of mixed A1/A3 to form an A3 unit at 51. Alteration to the shopfront and the installation of an extract duct from first floor to roof level on the rear elevation" (**the planning permission**) at the property.
 - 3.2. Conditions 11 and 13 of the planning permission both state:
"Prior to commencement of the development, details shall be submitted to and approved in writing by the Council, of the external noise level emitted from plant/ machinery/ equipment and mitigation measures as appropriate. The measures shall ensure that the external noise level emitted from plant, machinery/ equipment will 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 all machinery operating together at maximum capacity. A post installation noise assessment shall be carried out where required to confirm compliance with the noise criteria and additional steps to mitigate noise shall be taken, as necessary. Approved details shall be implemented prior to occupation of the development 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 CS5 and CS7 of the London Borough of Camden Local Development Framework Core Strategy and policy DP26, DP28 and DP12 of the London Borough of Camden Local Development Framework Development Policies."

- 3.3. On 8 May 2017 the Council gave notice by its decision referenced 2017/1755/P of approval of details required under a number of the conditions of the planning permission including the noise report for plant equipment and external noise levels required by Conditions 11 and 13.
- 3.4. On 17 November 2017 the Council gave notice by its decision referenced 2017/3860/P of its refusal to approve details of the post-completion (or post-installation) noise report required by Conditions 11 and 13. The Council's reason for refusal was that the submitted details fail to demonstrate that the installed plant/machinery/equipment complies with the acceptable noise thresholds as secured by Conditions 11 and 13 of the planning permission resulting in noise and disturbance to the detriment of the residential amenities of adjoining occupiers contrary to specified local planning policies.
- 3.5. It appears to the Council that Conditions 11 and 13 have not been fully complied with because the property is being occupied for the use approved under the planning permission without details of the post-installation noise assessment confirming compliance with the noise criteria and the additional steps taken to mitigate noise having been approved by the Council.

4. REASONS FOR ISSUING THIS NOTICE

- 4.1. It appears to the Council that the above breach of planning control has occurred within the last 10 years.
- 4.2. Without compliance with the noise criteria and the additional steps taken to mitigate noise being confirmed through approval by the Council of a post-installation noise report the amenities of the adjoining properties and the area generally will not be safeguarded contrary to the requirements of policies CS5 and CS7 of the London Borough of Camden Local Development Framework Core Strategy and policy DP26, DP28 and DP12 of the London Borough of Camden Local Development Framework Development Policies.
- 4.3. The Council does not consider that there should be any relaxation of the provisions of Conditions 11 or 13 which are required to safeguard the amenities of adjoining premises and the area generally.

5. WHAT YOU ARE REQUIRED TO DO

Cease the use of the property as a restaurant (Class A3) until such time as the Council has given notice in writing of its approval of details of the post-installation noise assessment confirming compliance with the noise criteria and the additional steps taken to mitigate noise as required under Conditions 11 and 13 of the planning permission.

6. TIME FOR COMPLIANCE

One (1) calendar month from the date of this notice taking effect.

7. WHEN THIS NOTICE TAKES EFFECT

This notice takes effect on **24 January 2018** unless an appeal is made against it beforehand.

DATED: 13 December 2017

David T. Jaye

Signed: _____

**Director, Regeneration and Planning, Supporting Communities on behalf of
the London Borough of Camden, Town Hall, Judd Street, London WC1H 8JE**

ANNEX

YOUR RIGHT OF APPEAL

You can appeal against this notice, but any appeal must be received, or posted in time to be received by the Planning Inspectorate acting on behalf of the Secretary of State before the **24 January 2018**.

The enclosed information sheet published by the Planning Inspectorate gives details of how to make an appeal – see link
<http://www.planningportal.gov.uk/uploads/pins/eninfosheet.pdf>

WHAT HAPPENS IF YOU DO NOT APPEAL

If you do not appeal against this enforcement notice, it will take effect on **24 January 2018**, and you must then ensure that the required steps for complying with it, for which you may be held responsible, are taken within the period specified in the notice. Failure to comply with an enforcement notice, which has taken effect, can result in prosecution and/or remedial action by the Council.

**NOTE PURSUANT TO REGULATION 5 OF THE TOWN AND COUNTRY
(ENFORCEMENT NOTICES AND APPEALS) (ENGLAND) REGULATIONS 2002.**

If you appeal against the notice on Ground (a) "That planning permission should be granted for what is alleged in the enforcement notice, or that the condition which is alleged not to have been complied with should be discharged", there is a fee payable under regulation 10 of the Town and Country Planning (Fees for Applications, Deemed Applications, Requests and Site Visits) (England) Regulations 2012 for the deemed application for planning permission for the development alleged to be in breach of planning control in the enforcement notice.

The fee is payable twice to the "London Borough of Camden", as the local planning authority.

If you wish to appeal under Ground (a), the fee payable to the "London Borough of Camden" should accompany the copy of the appeal form sent to the Council at the following address:

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

The fee is £172.00

The TOTAL FEE payable is £344.00 (i.e. £172.00 x 2)

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