

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: Rosa's Thai Restaurant
26 Earlham Street
London
WC2H 9LN

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: **26 Earlham Street London WC2H 9LN** 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: 2019/1307P Planning Application Rosa's Thai Cafe 26 Earlham Street London WC2H 9LN Installation of replacement plant and attenuation to the flat roof at first floor level within the enclosed rear lightwell.

4. THE BREACH OF CONDITION

The following conditions have not been complied with:

Condition 4 of the planning permission namely: Noise levels at a point 1 metre external to sensitive facades shall be at least 10dB(A) less than the existing background measurement (LA90), expressed in dB(A) when all plant/equipment (or any part of it) is in operation unless the plant/equipment hereby permitted will have a noise that has a distinguishable, discrete continuous note (whine, hiss, screech, hum) and/or if there are distinct impulses (bangs, clicks, clatters, thumps), then the noise levels from that piece of plant/equipment at any sensitive façade shall be at least 15dB(A) below the LA90, expressed in dB(A).

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.

Condition 5 of the planning permission namely: Prior to use, machinery, plant or equipment and ducting at the development shall be mounted with proprietary anti-vibration isolators and fan motors shall be vibration isolated from the casing and adequately silenced and maintained as such.

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 conditions have been breached in that:

1. The owner has failed to demonstrate that the installed plant/machinery/equipment complies with the acceptable noise thresholds as secured by condition 4 of planning permission reference 2019/1307/P dated 22 May 2019 resulting in noise and disturbance to the detriment of the residential amenity of adjoining occupiers contrary to policies A1 and A4 of the London Borough of Camden Local Plan 2017.
2. The owner has failed to demonstrate that the installed plant/machinery/equipment and ducting at the development has been adequately isolated in accordance with the requirements of condition 5 of planning permission reference 2019/1307/P dated 22 May 2019 resulting in vibration to the detriment of the residential amenities of adjoining occupiers contrary to policies A1 and A4 of the London Borough of Camden Local Plan 2017.

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. 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) Comply fully with the terms of condition 4 outlined above and:
 - (2) All machinery, plant, equipment and ducting shall be mounted with proprietary anti-vibration isolators and fan motors shall be vibration isolated from the casing and adequately silenced and maintained as such.

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: 22 January 2020

ANNEX

WARNING



(Signed).....

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

THESE ARE THE REASONS FOR THE DECISION OF THE SECRETARY OF STATE FOR THE ENVIRONMENT AGAINST THIS NOTICE

If an offence is committed in contravention of the provisions of this notice, the maximum fine which may be imposed is £5,000 for any offence and for any subsequent offence if you are in default of what is required of you to do, you should act in accordance with the Council's normal standard office to deal with enquiries.

John Sheehy
John Sheehy@camden.gov.uk
0207 34 5649

Supporting Communities
Regeneration and Planning
Development Management
London Borough of Camden
Town Hall
Judd Street
London
WC1H 8JE

If you need independent advice about this notice, you are advised to contact a legally qualified person, such as a solicitor, or other professional adviser, or a Citizens Advice Bureau. If you wish to contest the validity of the Notice, you may wish to apply to the High Court for judicial review.

DO NOT LEAVE YOUR RESPONSE TO THE LAST MINUTE

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:

John Sheehy
john.sheehy@camden.gov.uk
0207-974-5649

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).



