

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: YI LIU
Ground Floor and Basement
100 Cleveland Street
London
W1T 6NS**

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: **ORIENTAL DRAGON RESTAURANT 100 CLEVELAND STREET LONDON W1T 6NS** 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: 2016/0401/P Installation of new kitchen extraction flue at rear first floor level and replacement extraction ducting from first floor to roof level (retrospective); and proposed ducting to the roof of the existing ground floor extension in association with the use of the ground floor restaurant (A3 use)

4. THE BREACH OF CONDITION

The following condition has not been complied with:

Condition 2 of the planning permission namely: Within 2 months of the date of this decision notice, the extraction system, odour control system and noise mitigation measures as stated in acoustic report ref: ARM 177-01, dated 12th February 2016 and kitchen extraction system proposal document ref: P-108765 shall be provided in full for the building. 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 5dBA, or by 10dBA where the source is tonal, as assessed according to BS4142:2014 at the nearest and/or most affected noise sensitive premises, with machinery operating together at maximum capacity. The acoustic enclosure shall be permanently retained thereafter and the extract system and odour control system shall be cleaned and maintained every 6 months following installation.

The condition has been breached in that:

1. In the absence of details being submitted for approval in respect to the extraction system, odour control system and noise mitigation measures as stated in acoustic report ref: ARM 177-01, dated 12th February 2016 and kitchen extraction system proposal document ref: P-108765, the Council cannot be satisfied that the noise levels emanating from the flue is not causing a statutory nuisance to the occupiers of the building/surrounding occupiers and the development is thereby contrary to policy A4 (Noise and vibration) of Camden's Local Plan 2017; and
2. It has not been demonstrated that the flue has been cleaned and maintained every 6 months following its installation and therefore the Council cannot be satisfied that the development is not causing a statutory nuisance by way of the emission of unacceptable levels of cooking odours, to the detriment of the amenity of the existing occupiers of the building/surrounding buildings and the development is thereby contrary policy A1 (Managing the impact of development) of Camden's 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. Demonstrate that the extraction system, odour control system and noise mitigation measures as stated in acoustic report ref: ARM 177-01, dated 12th February 2016 and kitchen extraction system proposal document ref: P-108765 has been provided in full for the building in accordance with the requirements as set out in condition (2) attached to the planning permission granted on the 28/09/2016 under application reference 2016/0401/P; and
2. Clean the extract system and odour control system forthwith in accordance with the requirement of condition (2) attached to the planning permission granted on 28/09/2016 under application reference 2016/0401/P; or provide evidence demonstrating that the extract an odour control system has been cleaned.

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: **28 April 2022**



(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:

Angela Ryan
angela.ryan@camden.gov.uk
0207-974-3236

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).

