



George Nwachukwu

Chief executive's department
 Planning division
 Development Management (5th floor – hub2)
 PO Box 64529, London SE1P 5LX
 Contact: Gavin Blackburn
 Direct Line: 020 7525 7007
 E-mail: gavin.blackburn@southwark.gov.uk
 Web Site: <http://www.southwark.gov.uk>

Dear Mr Nwachukwu,

Our ref: 17EN 0447
 Your ref:
 Date: 9 April 2018

**Re: Planning Enforcement Notice, 26 October 2017
 at Unit 2, 777 Old Kent Road, London SE15 1NZ**

I write in relation to an Enforcement Notice served on 26 October 2017 (see attached) in relation to the above land, which requires the following:

- 5.1 Comply with condition 6 of planning permission granted under reference 3 February 2015 14/AP/2547 by carrying on the the permitted use only during the permitted hours of use.

OR

- 5.2 Cease the use of the Premises as a restaurant and hot food takeaway (Class A3 and A5)

The Enforcement Notice was not appealed and took effect on 30^h November 2017. That meant the one week compliance period expired on 7th December 2017. After that date an offence under section 179 Town & Country Planning Act 1990 was committed if the notice was not complied with.

I have recently received a complaint that the permitted hours of use under the planning permission were exceeded over the Easter weekend. I have asked colleagues in other sections of the Council to check their records and they have advised that complaints were made the weekend before Easter as well. On 6th April a colleague from the Council's licensing department entered the premises at 23:26hrs and found it open and serving customers, as well as playing music very loudly.

The requirements of the planning enforcement notice have not been complied with.

Failure to comply with the steps required in the Notice is a breach of section 179 of the Town and Country Planning Act 1990 (as amended) (see attached).

You appear to the Council to be the person in control of and with an interest in the land to which the Notice relates, by not taking the steps required by the Notice you have committed the offence set out in section 179(5) .

The Council is considering prosecuting you for this offence. The Council will delay making a decision on prosecution for 21 days from the date of this letter to allow you to respond to the nine questions set out below. You should consider those responses to be made under the Caution; **“You do not have to say anything. But it may harm your defence if you do not mention when questioned something which you later rely on in court. Anything you do say may be given in evidence.”**

This caution means that you do not have to answer any of our questions. You can, if you wish, remain silent or say ‘no comment’. However if the matter went to Court and you give an answer at Court that you could have given at the interview then the Court will wonder why. The Court will draw its own conclusions as to why you did not answer the question when you had the opportunity to. The final part of the caution means that anything you do say can be repeated.

You are asked to respond to the following questions in writing by 2nd May 2018. . You may well wish to take independent legal advice before submitting any response. Your response to this letter will be considered to have been made under Caution.

Questions

- 1) Describe in detail and provide copies of any lease or tenancy that you have entered into in respect of the Land that is the subject of the enforcement notice.
- 2) Please describe, in detail, your connection or business relationship with Fort Properties Limited
- 3) Please confirm the current rent payable for Unit 2, ground floor of the building known as Empire lounge; Please provide the date on which that rent was set.
- 4) Please confirm if at any stage you have paid any premium in respect of any lease or tenancy and describe in detail to what tenancy or lease such a premium relates?
- 5) Please set out if there has been any underletting of the premises.
- 6) Please confirm whether George Nwakchwu is the designated premises supervisor under the premises licence for this site.
- 7) If you do not consider yourself to be the person in control of the premises please state who you believe to control them and why.
- 8) What steps if any have you taken to achieve compliance with the notice?
- 9) Is there any reason why you consider you should not be prosecuted for the offence described in this letter?

If you wish to submit a statement you may do so.

If you would like me to arrange an interview under caution at the Council offices I will be happy to do so. Please give me notice as to when you and your legal advisor could attend such an interview.

Yours sincerely,

Gavin Blackburn
Planning Officer

TPI 2168-777

Ref: LEG/PL/AG/RR080/94 17/EN/0447

IMPORTANT - THIS COMMUNICATION AFFECTS YOUR PROPERTY


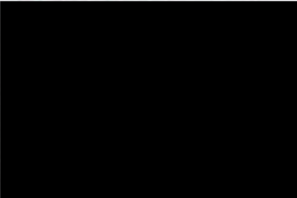
TOWN AND COUNTRY PLANNING ACT 1990

(as amended by the Planning and Compensation Act 1991)

ENFORCEMENT NOTICE: BREACH OF PLANNING CONDITION

ISSUED BY: THE LONDON BOROUGH OF SOUTHWARK

TO:

FREEHOLDER The Company Secretary, Fort Properties Limited (Incorporated in the Isle of Man) of 2a Lord Street, Douglas, Isle of Man IM1 2BD.	MORGAGEE The Company Secretary, Sanne Fiduciary Services Limited (Incorporated in Jersey) of 13 Castle Street, St. Helier, Jersey, JE4 5UT.	Mr George Nwachukwu, The Empire Lounge, Unit 2, 777 Old Kent Road, London, SE15 1NZ.
Mr George Nwachukwu, 	Mr George Nwachukwu, C/O R Jordan 	
THE OWNER The Owner Unit 2, 777 Old Kent Road, London SE15 1NZ.	THE OCCUPIER The Occupier Unit 2, 777 Old Kent Road, London SE15 1NZ.	

Address LCC1

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 this Notice and the enclosures to which it refers contain important additional information.

2. THE LAND TO WHICH THIS NOTICE RELATES

Unit 2, Ground floor, 777 Old Kent Road, London, SE15 1NZ. as shown edged red for identification purposes only on the attached plan ('the Premises').

3. **THE MATTERS WHICH APPEAR TO CONSTITUTE THE BREACH OF PLANNING CONTROL**

Non compliance with hours of use in relation to planning permission granted under reference 3 February 2015 14/AP/2547 for the change of use of vacant retail unit (Class A1) to hot food takeaway (Class A3 and A5) with cooking facilities and ventilation ducts with alterations to front elevation. In particular a breach of Condition 6 which reads:-

"The use hereby permitted for A3 to A5 purposes shall not be carried on outside of the hours 0700 to 2300 on Monday to Saturday or 0800 to 2200 on Sundays/Bank Holidays."

Reason:

"To safeguard the amenities of neighbouring residential properties in accordance with The National Planning Policy Framework 2012, Strategic Policy 13 High Environmental Standards of The Core Strategy 2011 and Saved Policy 3.2 Protection of Amenity of The Southwark Plan 2007."

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 It is expedient to take enforcement action because:-

4.2.1 As a result of the use of the restaurant beyond the hours permitted by Condition 6 significant harm has been caused to the amenity of neighbouring residents in Sylvan Grove flanking the rear yard of the Premises due to regular disturbance from noise during frequent late night operation after midnight.

4.2.2 The Council does not consider that planning permission should be given, because planning conditions could not overcome all of these objections.

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

5.1 Comply with Condition 6 of planning permission granted under reference 3 February 2015 14/AP/2547 by carrying on the permitted use only during the permitted hours of use.

OR:

5.2 Cease the use of the Premises as a restaurant and hot food takeaway (Class A3 and A5)

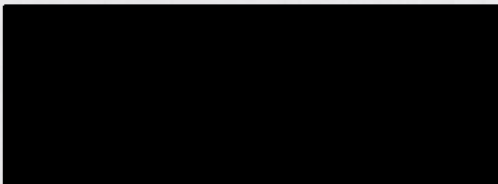
6. **TIME FOR COMPLIANCE**

One calendar week after this Notice takes effect.

7. **WHEN THIS NOTICE TAKES EFFECT**

This Notice takes effect on **30 November 2017** unless an appeal is made against it beforehand.

Dated: 26 October 2017



Director of Law and Democracy, 2nd Floor, PO BOX 64529, London SE1P 5LX
(160 Tooley Street, London SE1 2TZ)

EXPLANATORY NOTE

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 before the date specified in paragraph 7 of the Notice.

The enclosed Planning Inspectorate Information Sheet provides further information about your right of appeal against this Enforcement Notice.

If you are appealing under Ground (a), that you believe planning permission should be granted for what is alleged in the Notice, you are required to pay a fee of £390. This should be paid to the London Borough of Southwark by way of a cheque sent to the Planning Department at PO BOX 64529 London SE1P 5LX (160 Tooley Street, London SE1 2TZ) together with a copy of your appeal form.

You must submit with your Appeal Form, or within 14 days from the date the Planning Inspectorate notifies you, a statement in writing specifying the grounds of the appeal and state briefly the facts on which you are relying in support of those grounds.

WHAT HAPPENS IF YOU DO NOT APPEAL

If you not do appeal against this Notice, it will take effect on the date specified in paragraph 7 of the Notice and you must then ensure that the required steps for complying with it are taken within the period(s) specified in paragraph 6 of this Notice. Failure to comply with an enforcement notice which has taken effect can result in prosecution and/or remedial action by the Council.



777-778 Old Kent Road,
SE16 1NZ

OS MasterMap 1250/2500/10000 scale
16 July 2014, ID: CM-00343999
www.centremapslive.co.uk

1:1250 scale print at A4, Centre: 534968 E, 177480 N
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