**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:** Oldham Metropolitan Borough Council (“the Council”)

1. **THIS NOTICE** is issued by the Council because it appears to them that there has been a breach of planning control, under Section 171A(1) of the above Act, at the land described below. They consider that it is expedient to issue this Notice, having regards 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 additional information.
2. **THE LAND TO WHICH THE NOTICE RELATES**

Land to rear of Sorella, 38 High Street, Uppermill, OL3 6HR as shown edged red on the accompanying plan (“the Land”).

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

The continued siting on the Land of external storage sheds, external toilets with timber cladding and timber fence despite the refusal of planning permission FUL/350180/22.

1. **REASONS FOR ISSUING THIS NOTICE**

The Land contained a number of trees which were protected by the Conservation Area designation of the Land and which were cut down without the consent of the Council. The retrospective planning application FUL/350180/22 failed to demonstrate that the development had not taken place without harm to the protected trees and the location of the storage sheds prevents the planting of replacement trees by the owner of the Land as required by Section 213 of the above Act. Insufficient detail or methodology was submitted with regards to the proposed replanting. The proposal is contrary to saved UDP Policy D1.5 (Protection of trees on Development Sites) and Paragraphs 131,174 and 180 of the National Planning Policy Framework.

The loss of mature trees on the Land, protected under Section 211 of the above Act by virtue of being in the Uppermill Conservation Area, has caused harm to the visual amenity of the Conservation Area and it is considered that no public benefits have been provided to outweigh the harm. The development is contrary to Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990, paragraphs 197, 200 and 202 of the National Planning Policy Framework and Policy 24 (Historic Environment) of the Council’s Development Plan Document – Joint Core Strategy and Development Management Policies.

It appears to the Council that the breach of planning control stated at paragraph 3 has occurred within the last four years.

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

1. Permanently remove from the Land the timber gates shown coloured green and numbered 1-4 on the plan.
2. Permanently remove from the Land the timber fence shown coloured green and numbered 1-2-3-4-5 on the plan.
3. Permanently remove from the Land the external storage sheds and toilets located in the area shown edged blue and marked A on the plan.
4. Permanently remove from the Land the external storage sheds located in the area shown edged blue and marked B on the plan.
5. **TIME FOR COMPLIANCE**

The actions specified in paragraph 5 above must be carried out within three months of this Notice taking effect.

1. **WHEN THIS NOTICE TAKES EFFECT**

The Notice takes effect on 15 January 2024, unless an appeal is made against it beforehand.

Dated: 13 December 2023

Signed: Alan Evans

 **For Paul Entwistle**

 **Director of Legal Services**

 **Council’s Authorised Officer**

On behalf of: Oldham Metropolitan Borough Council

 Civic Centre

 West Street

 Oldham

 OL1 1UL

**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 date specified in paragraph 7 of the Notice.

**WHAT HAPPENS IF YOU DO NOT APPEAL**

If you do not appeal against this Enforcement 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, for which you may be held responsible, are taken within the period 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. The fee for any planning application submitted would be £293.

**IMPORTANT ADDITIONAL INFORMATION**

A copy of this Enforcement Notice has been served on the following persons: -

**Sorella Restaurant Limited,** 38 High Street, Uppermill, Oldham, OL3 6HR

**Xhelal Hoxha** of8 Croasdale Close, Royton, OL2 6QE

**Atdhetare Hoxha** of 8 Croasdale Close, Royton, OL2 6QE

**Julie Ann Wiltshire** of 2 Hoots Cottage, Boarshurst Lane, Greenfield, Oldham, OL3 7DZ



**IMPORTANT ADDITIONAL INFORMATION**

Under section 174 of the Town and Country Planning Act 1990 (as amended) you may appeal on one or more of the following grounds:-

1. That, in respect of any breach of planning control which may be constituted by the matters stated in the notice, planning permission ought to be granted or, as the case may be, the condition or limitation concerned ought to be discharged;
2. That those matters have not occurred;
3. That those matters (if they occurred) do not constitute a breach of planning control;
4. That, at the date when the notice was issued, no enforcement action could be taken in respect of any breach of planning control which may be constituted by those matters;
5. That copies of the enforcement notice were not served as required by section 172;
6. That the steps required by the notice to be taken, or the activities required by the notice to cease, exceed what is necessary to remedy any breach of planning control which may be constituted by those matters or, as the case may be, to remedy any injury to amenity which has been caused by any such breach;
7. That any period specified in the notice in accordance with section 173(9) falls short of what should be reasonably be allowed.

Not all of these grounds may be relevant to you.

If you decide to appeal under Ground (a) of Section 174(2) of the Town and Country Planning Act 1990 this is the equivalent of applying for planning permission for the development alleged in the Notice and you will have to pay a fee of £234 which is payable to the Council. There is no fee for the appeal itself.

If you decide to appeal, when you submit it, you should state in writing the ground(s) on which you are appealing against the enforcement notice and you should state briefly the facts on which you intend to rely in support of each of those grounds. If you do not do this when you make your appeal the Secretary of State will send you a notice requiring, you to do so within 14 days.