

Enforcement Delegated Report

Receipt date:

May 2023

Officer

Katrina Lamont

Enforcement Case

EN23/0331

Breach Address

1-6 Arco Walk
138-140 Highgate Road
London
NW5 1PB

Photos & Other material

On file

Authorised Officer Signature



03/08/2023

Alleged Breach

Without planning permission, the use of units 1-6 Acro Walk, 138-140 Highgate Road as temporary sleeping accommodation.

Recommendation(s):

That the Borough Solicitor be instructed to issue an Enforcement Notice under Section 172 of the Town & Country Planning Act 1990 as amended requiring, to cease the use of units 1-6 for temporary sleeping accommodation and the make the use of the buildings comply with the terms (including conditions, limitations and agreements) of permission 2018/1528/P as 6 x 4 bedroom units, and to pursue any legal action necessary to secure compliance and officers be authorised in the event of non-compliance, to prosecute under section 179 or appropriate power and/or take direct action under 178 in order to secure the cessation of the breach of planning control.

Site Description

The site comprises a three storey building featuring 6 x 4 bedroom units. The entrance to the dwellings is along Acro Walk.

Planning permission was granted on 9th July 2019 (Reference: 2018/1528/P) for

Demolition of petrol station and MOT centre at 138-140 Highgate Road and erection of a three storey terrace building to provide 6 x 4 bedroomed dwelling houses with gardens at lower ground, ground and upper ground levels together with associated landscaping

The building is three storey's in height with two floors sunken into the ground (ground and lower ground floor level). Due to the sloping topography of the site which drops from north to south two floors are sunken by between 4.9m and 6.2m. The building is single storey in height when viewed from College Lane and 1.5 storey's in height when viewed from Highgate Road. The design features a series of recessed vaulted brick 'vaults' or 'catacombs' constructed from mainly brick with full height glazed single pane window openings. The development should provide 6 new market single family dwellings (6 x 4 bed). However as the notice contends, the residential use (C3) has not been implemented.

The site lies within the Dartmouth Park Conservation Area.



Figure 1. View of the Arches from Acro Walk toward Grove Terrace

Investigation History

Building Control records indicate the development was issued a completion certificate on 24th January 2023. According to the listing of the properties on booking.com, they have been welcoming guests since 17th December 2022. It is therefore the Council's contention that the units have not implemented their residential use but rather have gone straight to temporary sleeping accommodation. As there is no evidence the units have been occupied for residential use, they do not benefit from condition from Section 25 of the Greater London Council (General Powers) Act 1973. A residential use would need to be lawful in order for section 25 to be applicable. In any event, it is clear that the units are in full time use as temporary sleeping accommodation.

Officers have visited the site on a number of occasions. A site inspection in May 2023, noted rolled up towels on beds, the same white bed linen on each bed and the same curtains on each unit.



Figure 2. Rolled up towels for guests.

A further visit was carried out by a Business Rates Inspector on 1st June 2023. They spoke with the occupier of Unit 1 who said they were there on holiday. During the visit a group of holiday makers left another unit with their luggage.

Complaints have also been received regarding the excess level of rubbish the temporary sleeping accommodation use is generating and the impact this is having on neighbouring occupiers and streetscene.


A Planning Contravention Notice was served on the registered freeholder of the property on 18th May 2023 to ascertain how the units are used. No response was received.

The property is advertised across several short term letting sites such as Booking.com, Planet of Hotels, Cur8 Residences,


Booking.com:

[The Arches, London – Updated 2023 Prices \(booking.com\)](#)


Destination/property name

 London

Check-in date

 Check-in date

Check-out date

 Check-out date

2 adults - 0 children - 1 room

☐ I'm travelling for work

Search



The Arches

 140 Highgate Road, Camden, London, NW5 1PB, United Kingdom – Excellent location - [show map](#)



-  Apartments
 -  Kitchen
 -  Washing machine
 -  Free WiFi
 -  Terrace
 -  Balcony
 -  Bath
 -  Non-smoking rooms
 -  Heating

Set 2 km from Camden Market, The Arches offers a terrace, and accommodation with a balcony and free WiFi.

The accommodation comes with a flat-screen TV and a private bathroom with shower, bath and free toiletries, while the kitchen has a fridge, an oven and a dishwasher. A microwave, a stovetop and toaster are also offered, as well as a coffee machine and a kettle.

King's Cross Theatre is 3.5 km from the apartment, while London Zoo is 3.5 km from the property. The nearest airport is London City Airport, 18 km from The Arches.

The Arches has been welcoming Booking.com guests since 17 Dec 2022.

Property highlights

Top location: Highly rated by recent guests (9.8)

Reserve

 Save the property



The Arches

Reserve now

Close X



27 / 46



9.4 **Superb**
16 reviews

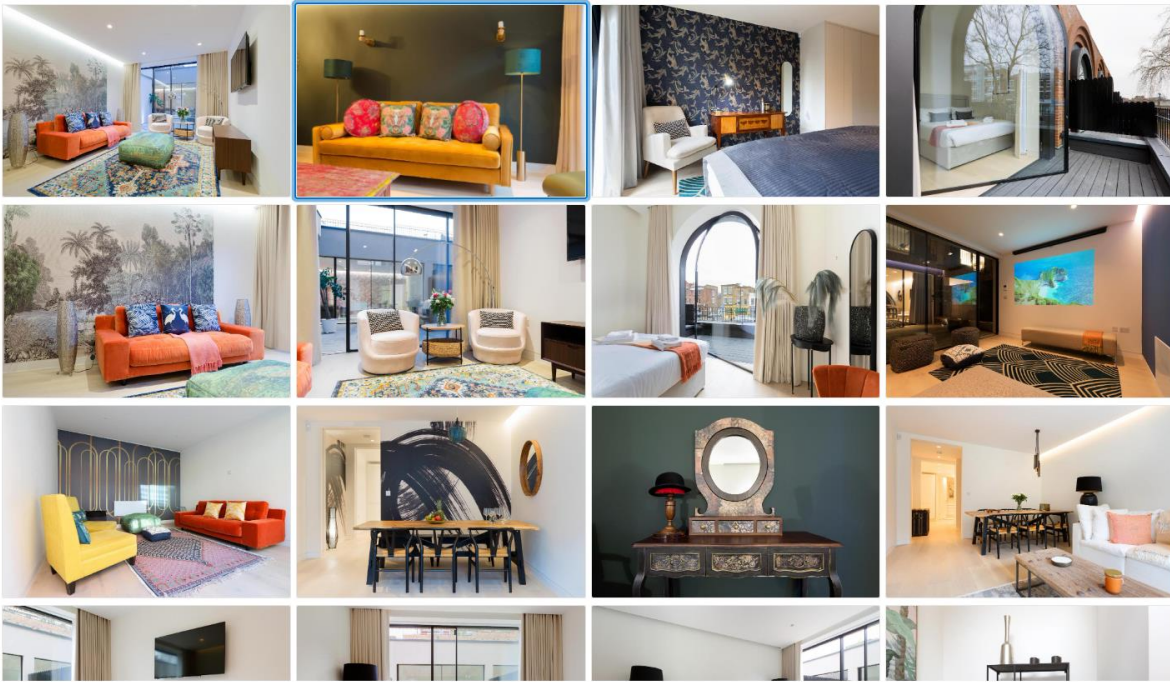
What guests loved the most:

"very nice property loved the style
and all great quality finishes"

 **Gary**
 United Kingdom

"proximity to city center. Getting around town in buses & trains from the apartment is so seamless. It boasts of every basic home stuff for family stay. Host is a polite, friendly & warm personality who showed understanding when I forgot to drop the apartment key upon check out. He politely sent to me an address to post the key to"

Moji
Nigeria



9.5 Exceptional
15 reviews

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M Moji
Nigeria

"Amazing three-story house, very quiet, extremely clean, comfortable and well decorated. Kitchen with almost everything you may need. Really cozy bedrooms with excellent beds. Three bathrooms (one for each room), 2 with showers, 1 with a tub. We would definitely come back!"

M Msalvia
Spain

"So new, clean, and modern, room sizes were terrific and big windows, both were a treat in london. Friends joined us and found parking just around the corner. Ideal all round with a couple of

The Arches, London - Updated 2023 Prices

https://www.booking.com/hotel/gb/the-arches-greater-london.en-gb.html

🔍 🌐 📱 🗺️ ⌕ ⚙️

Availability

[We Price Match](#)

🕒 Select dates to see this property's availability and prices

📅 Check-in date — Check-out date 👤 2 adults · 0 children · 1 room 🔍 Search

Accommodation Type	For	
Four-Bedroom House Bedroom 1: 1 double bed 🛏️ Bedroom 2: 1 sofa bed 🛏️ Bedroom 3: 1 large double bed 🛏️ Bedroom 4: 1 large double bed 🛏️	👤 x 8	Show prices
Apartment - Split Level Bedroom 1: 1 large double bed 🛏️ Bedroom 2: 1 double bed 🛏️ Bedroom 3: 1 sofa bed 🛏️ Bedroom 4: 1 large double bed 🛏️	👤 x 8	Show prices
Four-Bedroom House Bedroom 1: 1 double bed 🛏️ Bedroom 2: 1 sofa bed 🛏️ Bedroom 3: 1 large double bed 🛏️ Bedroom 4: 1 large double bed 🛏️	👤 x 8	Show prices
Four-Bedroom House Bedroom 1: 1 double bed 🛏️ Bedroom 2: 1 sofa bed 🛏️ Bedroom 3: 1 large double bed 🛏️ Bedroom 4: 1 large double bed 🛏️	👤 x 7	Show prices
Four-Bedroom House Bedroom 1: 1 double bed 🛏️ Bedroom 2: 1 sofa bed 🛏️ Bedroom 3: 1 large double bed 🛏️ Bedroom 4: 1 large double bed 🛏️	👤 x 8	Show prices
Four-Bedroom House Bedroom 1: 1 double bed 🛏️ Bedroom 2: 1 sofa bed 🛏️ Bedroom 3: 1 large double bed 🛏️ Bedroom 4: 1 large double bed 🛏️	👤 x 8	Show prices

🌱 Travel Sustainable property



11:37
18/05/2023

Guest reviews

Sort reviews by: Newest first

T **Temi**
🇺🇸 United States

🛏 Four-Bedroom House

📅 6 nights · July 2023

👥 Family

Reviewed: 17 July 2023

Superb

9.0

😊 · Modern, clean, comfortable

😞 · Nothing

👍 Helpful 👎 Not helpful

K **Katarzyna**
🇵🇱 Poland

🛏 Apartment - Split Level

📅 5 nights · June 2023

👥 Group

Reviewed: 15 July 2023

A very nice stay thanks to a very nice apartment in a great location and a beautiful pod

10

😊 · Super comfortable, elegant apartment in a very good location, close to the metro and a park with a mini-gym!

😞 · The offensive statement of the lady in charge of this apartment after our departure that it borders some items! When asked what, she did not answer! It was an unpleasant accent of a nice stay so far. We are the owners of a large medical company and such untrue insinuations affected us very much - we never take anything from the apartments we rent.

Translated by Google - [Show original](#)

👍 Helpful 👎 Not helpful

F **Fernando**
🇦🇷 Argentina

🛏 Four-Bedroom House

📅 5 nights · July 2023

👥 Group

Reviewed: 12 July 2023

Exceptional

10

There are no comments available for this review

N **Natt**
🇬🇭 Ghana

🛏 Four-Bedroom House

📅 10 nights · June 2023

Reviewed: 21 June 2023

Good

7.0

There are no comments available for this review

A Arantxa
Spain

Four-Bedroom House

3 nights · June 2023

Family

Reviewers' choice Reviewed: 14 June 2023

10

Amazing accommodation to enjoy in London!

😊 · The house is amazing! Brand new with quality design and finishes. And beautiful decor. The layout is a bit strange because you enter and there is a small office and a full room and bathroom; you go down one floor and there are two rooms with two full bathrooms and you go back down the stairs and there is the kitchen with laundry area and a toilet, and the living room with exit to another room where there was a projector. We really enjoyed being able to watch a movie late at night with our kids. High end appliances. The lights with dimmer regulator. Huge and nice windows (the one in the room above is very big and turns to go out to the balcony and the ones in the living room are sliding with the "cold cuts on the floor" rails). Very modern, nice and cozy. A delight! Bus 88 that takes you to the center stops right in front. And a few minutes walk there is train and metro. A shop 2 minutes away for last minute things and supermarkets (Lidl, Tesco, ...) a few minutes walk. Absolutely recommendable! We also requested a favor of being able to leave the bags before the check-in time so as not to walk around the city with the suitcases and it was possible. We appreciated it very much.

We found it very comfortable to receive the check in details via wapp and be able to get the house key simply by entering a code in an area in front of the main door. Same for leaving the house at 11. A PLACE THAT DOES NOT DEFROZE AT ALL! TO RETURN ONE AND AGAIN!!!

😬 · Some detail to improve was that some BOMBILLES were missing, some were from decorative lamps just like that and it was of no more importance (the one on the floor below between kitchen and living room and the first of the living room next to the sofa, which did not work), but there was no bulb on the dining table and you had almost dim dinner. I wrote to Emily and never received any kind of response; she should have been busy, but she misses a little attention in that regard, or just have spare bulbs at home.

Another thing is that, since it is a "down" house, the WIFI signal does not reach or reach, despite repeaters, on the two floors below. In our case that was not a big problem. We didn't intend to use it that much. And in the front office the sign was perfect.

There are quite a few MOSQUITOES and insects in general (by the garden above the projector room). Luckily there was a spray to remove them which we were able to use.

Maybe it lacked a deeper cleaning (lint in bed-roll, some hair that wasn't ours in carpet, cobweb on the balconies). Customers usually connect (one leaves and another enters) and for the price paid for cleaning, perhaps there could be more staff to ensure a more thorough review in those 4 hours between check-out and check-in. BUT THE HOUSE IN GENERAL IS VERY CLEAN (they are just small details if you want to improve).

Translated by [Booking.com](#) - [Show original](#)

👍 Helpful 👎 Not helpful

G Gary
United Kingdom

Four-Bedroom House

3 nights · June 2023

Reviewed: 6 June 2023

beautiful house , great facility's and would stay again

10

😊 · very nice property loved the style and all great quality finishes

⌋



Nassim

France

Four-Bedroom House

5 nights · April 2023

Group

Reviewed: 23 April 2023

A pleasant trip, a bright, spacious and very well-equipped apartment!

· The accommodation was really big and super well located!

· Network and wifi didn't work downstairs.

Translated by **Booking.com** - [Show original](#)

9.0

Helpful Not helpful



Moji

Nigeria

Four-Bedroom House

4 nights · April 2023

Family

Reviewed: 15 April 2023

a clean apartment in a clean area at the center of everything

· proximity to city center. Getting around town in buses & trains from the apartment is so seamless. It boasts of every basic home stuff for family stay. Host is a polite, friendly & warm personality who showed understanding when I forgot to drop the apartment key upon check out. He politely sent to me an address to post the key to

· nothing

10

Helpful Not helpful



Carlota

Spain

Four-Bedroom House

4 nights · April 2023

Family

Reviewed: 12 April 2023

Superb

· The house is very spacious, comfortable and pleasant. We were two families with children, we had room for everyone without any problem. The location is perfect for both metro and bus transport. We used the bus, it takes 20-30 min to get to the center. Supermarkets and restaurants are close by. The owners were very attentive and helped us with any questions we had.

· The house is quite big and the heating took too long to heat the rooms.

Translated by **Booking.com** - [Show original](#)











9.0

1 person found this review helpful.

Helpful Not helpful

[The Arches in London, United Kingdom - reviews, prices | Planet of Hotels](#)

The screenshot shows the Planetofhotels website. At the top, there's a navigation bar with the website's URL, a logo, and links for Travel Guide, Car Hire, and Flights. Below this is a breadcrumb trail: Home --> Europe --> United Kingdom --> Hertfordshire --> Hotels in London --> Camden --> The Arches. The main content area features a large image of a hotel room with a large arched window. The room has a bed with white linens and a red throw, and a view of a balcony with a black railing and a brick building. Below the image, there are five icons representing amenities: a price tag for 'We Price Match', a handshake for 'No commission', a document for 'Instant reservation confirmation', a Wi-Fi symbol for 'Free Wi-Fi', and a location pin for '5.6 km from centre'. The bottom of the page shows a dark footer with the text '© 2019 Planetofhotels.com'.

Room type	Guests		
 Room description	Apartment - Split Level	 x 8	Show prices
 Room description	Four-Bedroom House	 x 8	Show prices
 Room description	Four-Bedroom House	 x 8	Show prices
 Room description	Four-Bedroom House	 x 8	Show prices
 Room description	Four-Bedroom House	 x 8	Show prices

Cur8 Residences:

[Luxury Serviced Apartments in London | Cur8 Residences](#)

The Council is also investigating a number of breaches of the S106 Legal Agreement, including the unauthorised erection of railings on publically designated land contrary to Clause 2.34a which requires measures to secure free unrestricted public access to the public open space 24 hours per day 7 days per week, deferred affordable housing contribution (Clause 4.6) and open space LBC parks contribution (Clause 4.12).

Relevant policies / GPDO Category

National Planning Policy Framework (2021): Paragraph 59

The London Plan (2021): policies H8 and H9

Camden Local Plan (2017)

H1 Maximising housing supply
H3 Protecting existing homes
H6 Housing choice and mix
H7 Large and small homes
A1 Managing the impact of development
A4 Noise and vibration
D1 Design
D2 Heritage

Camden Planning Guidance

CPG- Housing

Assessment

Issues: The residential use (Use Class C3) permitted by planning permission 2018/12529/P has not been implemented. It is the Council's contention that units 1-6 have been used for temporary sleeping accommodation since their creation.

Assessment:

Summary

The Council seeks to control the use of residential properties for temporary sleeping accommodation across the Borough for two main reasons. Firstly, the use of residential accommodation for short term letting goes beyond the scope permitted by law, reduces the stock of permanent housing available to people who wish to live in Camden. In a time of an acute housing shortage the Council cannot afford to lose private dwellings in this manner.

Secondly, the Council seeks to restrict short-term letting because holiday-makers and others staying properties for short periods are less likely to treat their holiday flat in a manner that has respect for the peace and privacy of other, permanent, residents who live within the vicinity, and therefore residential amenity is often diminished through noise and disturbance.

On balance, the evidence suggests that there has been a breach of planning control. In these circumstances it is recommended that an Enforcement Notice is issued.

The London Plan recognises the importance of maintaining London's housing stock. Supporting paragraph 4.9.3 of Policy H9 in particular specifically states:

The use of dwellings as short-term holiday rentals can have a detrimental impact on neighbours' residential amenity and community cohesion in the wider area where concentrated in a particular location. The use also reduces the supply of homes available for people to live in

The London Plan (H9) advises that given the level of need, existing housing should be retained where possible and appropriate, except where there are acceptable plans for its replacement. It states

'Boroughs should take account of the impact on housing stock and local housing need when considering applications for a change of use from housing to short stay holiday rental accommodation to be used for more than 90 days a year'.

Policy H3 'Protecting Existing Homes' in Camden's Local Plan 2017 seeks to protect 'housing from permanent conversion to short-stay accommodation intended for occupation for periods of less than 90 days'

By virtue of Section 25 of the Greater London Council (General Powers) Act 1973, the use as 'temporary sleeping accommodation' of any residential premises in Greater London involves a 'material change of use' for the purposes of the definition of 'development' which appears at Section 55 of the Town and Country Planning Act 1990 (as amended).

Temporary sleeping accommodation is defined by Section 25 of the Greater London Council (General Powers) Act 1973 (as amended) as follows:

"Use as sleeping accommodation which is occupied by the same person for less than 90

consecutive nights, and which is provided (with or without other services) for a consideration arising either by way of trade for money or money's worth, or by reason of the employment of the occupant whether or not the relationship of landlord and tenant is thereby created".

Extent of Use for Short-Term Letting Permitted by the Deregulation Act 2015

Prior to amendments to Section 25 of the Greater London Council (General Powers) Act brought in by Section 44 of the Deregulation Act 2015, the use of residential premises was not lawful (however intense or infrequent its occurrence within any particular 'residential premises') unless planning permission had been expressly granted for such use or unless a Lawful Development Certificate had been granted (i.e. on the basis that the use had been undertaken continuously for a sufficient period - 10 years – to acquire immunity from enforcement action

The amendments to Section 25 of the Greater London Council (General Powers) Act 1973 introduced Section 25A. Subsection (1) of Section 25A states that the use of residential accommodation within Greater London as 'temporary sleeping accommodation' does *not* involve a material change of use [and therefore does *not* require planning permission and is lawful] provided two Conditions are met.

The first of these two Conditions is set out in subsection (2)(a) and (b) of Section 25A, as follows:

'The first is that the sum of –

(a) the number of nights of use as temporary sleeping accommodation, and

*(b) the number of nights (if any) of each previous use of the premises as temporary sleeping accommodation in the same calendar year **does not exceed ninety.**'*

The second of these two Conditions is set out in subsection (3) (a) and (b) of Section 25A as follows:

'The second is that, in respect of each night which falls to be counted under subsection (2)(a) -

(a) the person who provided the sleeping accommodation was liable to pay council tax under Part 1 of the Local Government Finance Act 1992 in respect of the premises, or

(b) where more than one person provided the sleeping accommodation for the night, at least one of those persons was liable to pay council tax under Part 1 of that Act in respect of the premises.

In the case of units 1-6, 138-140 Highgate Road, the property has been in use as temporary sleeping accommodation since at least 17th December 2022 according to evidence gathered from booking.com. Council building control records show the development was completed on 24th January 2023. It is therefore the Council's contention that the dwellings were likely never in C3 use and have been used as temporary sleeping accommodation since their creation.

The unauthorised use therefore does not benefit from Section 25 of the Greater London Council (General Powers) Act 1973. A residential use would need to be lawful in order for section 25 to be applicable.

The property is being advertised on several websites, Booking.com, Planet of Hotels and Cur8 Residences which all indicate the provision of short term let accommodation. The units are clearly laid out and marketed as a full time professional short term lets. There are no signs of personal items in the units nor evidence of residential use. In light of the above, it would appear that in all probability, the unit is in full-time short- term holiday let, and not in permanent residential use. Photos of the property also show that the building is laid out and marketed for full time short term let use.

A key material consideration in the granting of planning permission for the redevelopment was the provision of residential accommodation. The approved scheme included the erection of a new terrace

of mews like single family dwellings that would comprises 6 self-contained houses and an additional 645 sq. m (GIA) of residential floorspace. The provision of additional residential floorspace within the Borough was strongly supported by Policy H1, which highlights the need to maximise the supply of housing. Planning permission is unlikely to have been granted for a proposal involving temporary sleeping accommodation.

Amenity:

The comings and goings to the property is likely to give rise to an associated increase in overall noise and disturbance, as visitors are more likely to come and go at different hours compared to permanent residents.

Expediency:

In a time of acute housing shortage it is considered expedient to take action to ensure that such breaches cease and that a permanent unauthorised use as short term let does not become lawful by passage of time.

Recommendation:

That the Borough Solicitor be instructed to issue an Enforcement Notice under Section 172 of the Town & Country Planning Act 1990 as amended requiring, to cease the use of units 1-6 for temporary sleeping accommodation and the make the use of the buildings comply with the terms (including conditions, limitations and agreements) of permission 2018/1528/P as 6 x 4 bedroom units, and to pursue any legal action necessary to secure compliance and officers be authorised in the event of non-compliance, to prosecute under section 179 or appropriate power and/or take direct action under 178 in order to secure the cessation of the breach of planning control.

The notice shall allege the following breaches of planning control:

Without planning permission: The use of units 1-6 Acro Walk, 138-140 Highgate Road as temporary sleeping accommodation.

WHAT ARE YOU REQUIRED TO DO:

- a. Cease the use of units 1-6 for temporary sleeping accommodation;
- b. Make the use of the building comply with the terms (including conditions, limitations and agreements) of permission 2018/1528/P as 6 x 4 bedroom units.

PERIOD OF COMPLIANCE: 1 Month

REASONS WHY THE COUNCIL CONSIDER IT EXPEDIENT TO ISSUE THE NOTICE:

1. The unauthorised use has occurred within 10 years
2. The unauthorised use has resulted in the unacceptable loss of permanent residential accommodation, which is contrary to policies H1 (Maximising housing supply), and H3 (Protecting existing homes), of the Camden Local Plan (2017).
3. In absence of a S106 legal agreement to secure the development as car free, the development contributes unacceptably to parking stress and congestion in the surrounding area, contrary to policies T1 (Prioritising walking, cycling and public transport), T2 (Parking and Car Parking), A1 (Managing the impact of development) and DM1 (Delivery and monitoring) of the Camden Local Plan (2017).

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