

## Statement of Case

Site at 26-28 Whitfield Street, London W1T 2RG.

LB Camden ref: EN22/0411.

Appeal by Sican Ltd.

Change of use of the property from residential use to use as temporary sleeping accommodation.

Chartered Town Planners.

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## 1.Introduction.

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- 1.1. Hollins Planning have been appointed to submit a written representations appeals against the council's decision to issue an enforcement notice for the change of use of the upper floors of the property to temporary sleeping accommodation. The appeal has been submitted on behalf Sican Ltd, who are the current leaseholders pf the appeal premises.
- 1.2. The appeal has been submitted on Ground A that in respect of any breach of control, planning permission should be granted.

## 2. Site.

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- 2.1. No. 26-28 Whitfield Street is a 5-storey, terraced building, erected in the 1950's. It has been extended in the form of a mansard roof extension. The ground floor and basement is occupied by a Class E commercial unit. The upper floors provide residential accommodation, although as detailed they have not been used solely for this purpose for many years. The property is in Charlotte Street Conservation area and within the Central London Activity Zone (CAZ).



The appeal premises.

### 3. Planning History.

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3.1. The site has the following planning history.

2018/1113/P **WITHDRAWN**.

Change of use of existing accommodation at first, second, third and fourth floor level to four serviced apartments (C1 use).

PSX0105174 **GRANTED** (2002)

Installation of new shopfront, extension to basement and erection of a ground floor extension for additional restaurant use (Class A3),

PS9905107 **REFUSED** (1999)

Window replacement, as shown by drawing numbers 99111/01R01, 99111/02/R01, SK01 & SK02.

## 4. Reasons for issuing the notices.

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4.1. The enforcement notice was served on 7<sup>th</sup> September 2023. The reasons for issuing the notices are as follows.

### 4. REASONS FOR ISSUING THIS NOTICE:

- a) The change of use has occurred within the last 10 years.
- b) The number of nights the flat has been let on a short term basis has exceeded conditions set by Section 25 of the Greater London Council (General Powers) Act 1973 except to the extent allowed by Section 25A (1) of that Act, which permits the use subject to Conditions, including Conditions set out at Section 25A (2) (a) and (b) which limit use as temporary sleeping accommodation to a maximum of 90 nights in any one calendar year. In doing so it has resulted in the unacceptable loss of permanent residential accommodation contrary to policies A1 (Managing the impact of development), H1 (Maximising housing supply) and H3 (Protecting existing homes), of the Camden Local Plan (2017).
- c) The high turnover of occupiers results in increased potential of incidences of noise and disturbance to the detriment of the neighbouring occupiers contrary to policies A1 (Managing the impact of development), H3 (Protecting existing homes) of the Camden Local Plan (2017) and CPG6 (Amenity) of The London Plan (2016).

4.2. The statement of case shall address these reasons.

## 5. Policy Context.

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*National Planning Policy Framework (NPPF) (2021).*

- 5.1. The following paragraphs are relevant.
- 5.2. Planning policies and decisions should help create the conditions in which businesses can invest, expand, and adapt (Para 81).
- 5.3. Significant weight should be placed on the need to support economic growth and productivity, considering both local business needs and wider opportunities for development (Para 81).
- 5.4. Planning policies and decisions should support the role that town centres play at the heart of local communities, by taking a positive approach to their growth (Para 86).

*London Plan 2021.*

### **Policy E10 (Visitor Infrastructure).**

- 5.5. This states that a sufficient supply of service accommodation should be maintained.
- 5.6. Within the CAZ, serviced accommodation should be supported except in wholly residential streets or predominantly residential neighbourhoods.
- 5.7. The council third reason for issuing the notice (residential amenity) also refers to policy CPG6 in the 2016 London plan. However, there is no policy in the 2016 plan with this reference. Also, the 2016 plan has been superseded by the 2021 London Plan.

*Camden's Local Plan 2017.*

- 5.8. The enforcement notice refers to the following policies in this document.

### **H3 (Protecting Existing Homes)**

- 5.9. This states that the council will resist development that involves a net loss of residential floorspace and will protect housing from permanent conversion to short stay accommodation intended for occupation for period of less than 90 days.

**Policy E3 (Tourism).**

- 5.10. This states that the council recognises the importance of the visitor economy in Camden and will expect large- and small-scale visitor accommodation to be in Central London. However, the policy also states that changes of use to visitor accommodation must not lead to a net loss of permanent residential accommodation.

**Policy A1 (Managing the impact of Development).**

- 5.11. This policy relates to the protection of residential amenity. This is relevant in the context of the council's third reason for issuing the notice. Although Policy A1 is also referenced in the council's second reason too (loss of permanent residential accommodation). In the context of this reason Policy A1 is not relevant.
- 5.12. The lawful use of the upper floors is 4 self-contained flats. It is accepted that a change of use to short term let accommodation would conflict with stated aims of Camden's Local Plan Policies H3 and E10. However, it is important to balance this conflict with the newer policy requirements of the NPPF and London Plan Policies which seek to promote the economy and the tourism service sector. In accordance with the London Plan and Camden's local plan the appeal property is in the CAZ which is an appropriate location for these types of use. It is also in a mixed-use area and there are other residential properties on Whitworth Street, but the character of the area is predominantly commercial.

*Emerging policy.*

- 5.13. Camden's local plan was adopted in 2017. Paragraph 33 of the NPPF states that local plans should be reviewed at least every 5 years and be updated as necessary. It goes onto state that the review should be completed no later than 5 years from the adoption of the plan.
- 5.14. Camden have started to review their plan, but this process is in its early stages and according to the local development scheme the revised plan is not due to be adopted until summer 2025.



## 6. The appellant's case.

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### Ground A

#### **What harm would arise from the loss of the 4 flats as permanent accommodation?**

##### *The scale of the problem.*

- 6.1. It is accepted that short-term letting has reduced the amount of housing stock that is available in the borough. According to the Leader of Camden Council (Source GLA Article 19/07/2023) they have recorded over 4,400 short term lets in the borough and 24% (1056 homes) of these are let for a period greater than 90 days.
- 6.2. This sounds significant. However, there are over 112,470 properties in Camden that are registered for council tax (Camden open-source data). As a percentage, the total number of homes that are let for over 90 days only equate to 0.93% of the total stock.
- 6.3. Of course, it is possible to argue that the loss of just under 1% of the borough's permanent housing stock is still unacceptable. However, what London needs most are affordable homes and the market has already placed the flats in the appeal property well beyond the reach of the average Londoner (see next section).
- 6.4. There is no doubt that the seemingly unstoppable growth of the serviced apartment sector is considered to be a threat by the council. However, according to an article by produced by commercial property agents Knight Frank (see Appendix 1 for extract) growth has stalled and up to 2,300 units have permanently closed, with many smaller operators seeing the private rental market as a more secure option.
- 6.5. The article goes onto state the sector has grown, but 60% of this has come from the activities of larger serviced apartment providers. Generally, they seek to occupy converted office buildings or purpose-built new build developments.

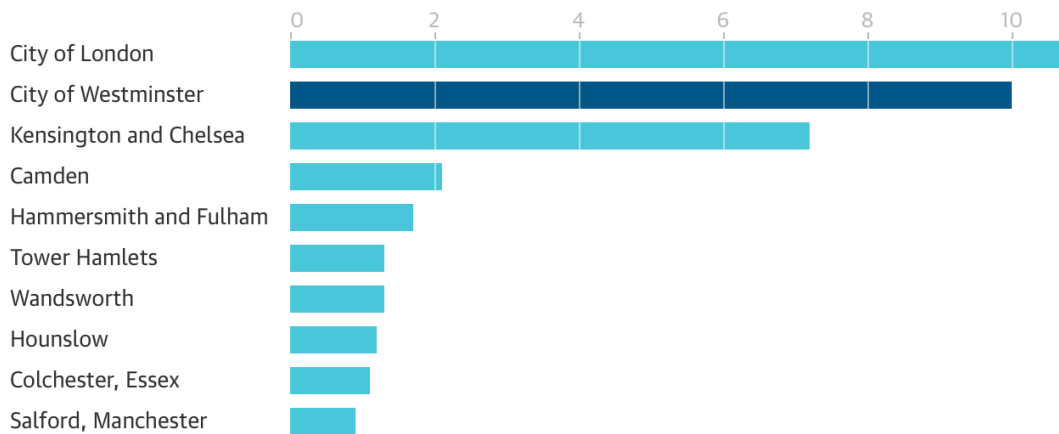
##### *Affordability of existing stock*

- 6.6. Appendix 2 of this statement contains the sale/rental prices of 2 bedroomed flats that are similar in size to the flats in the appeal property. One is advertised for sale at £1. 2 million and the other is for rent at £7,800 per calendar month. Even considering the uncertainty in the current housing market, the cost of these units is never going to be so low that they are going to be affordable to a

Londoner on an average salary of £37,000 PA (source ONS 2023).

- 6.7. These units will only ever be bought or rented by wealthy individuals or offshore companies, which is not going to of any benefit to Londoners in genuine housing need or to London’s economy. As detailed in the table extract below over 2% of the properties in Camden are owned by offshore trusts.

Percentage of property registered in tax havens



Guardian graphic | Source: Land Registry, Valuation Office Agency

*Housing delivery.*

- 6.8. Camden can do little to influence the cost of its existing housing stock. What is needed is to maximise the delivery of new affordable housing units. Camden, know this and the delivery of new affordable homes is their priority. This is summed up in the following extract from Camden’s web site.

LONDON, 01 September 2022

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**Camden Council is set to scale up its housebuilding programme in response to local housing needs and confirm its place as a national leader for building new council homes.**

The council's Housing Scrutiny Committee and Cabinet will review ambitious plans next week that pledge to:

- Increase the council's house building target to 4,850 new homes, up from 3,050
- Deliver over 2,600 affordable homes, including 1,800 new council homes, and maintain Camden's position as one of the leading builders of new social housing
- Make an additional £1bn investment in increasing the numbers of social and affordable homes in Camden
- Continue building larger, energy-efficient homes that provide Camden families with the space they need, help to tackle rising bills and lower carbon emissions

Councillor Danny Beales, Cabinet Member for New Homes, Jobs, and Community Investment said the strategy is a "*bolder and more ambitious*" phase to Camden's house building programme - which has so far provided larger Council homes to over 1,000 residents including 453 children, many of whom previously lived in overcrowded homes.

He said: "*Now is the time for the Council to be even bolder and more ambitious. Instead of delaying new homes in the absence of national funding, we are taking action and building as many affordable homes, as quickly as is possible, which we know are urgently needed for our residents.*"

*"We will deliver many of these housing schemes ourselves and, where there is opportunity to deliver the same numbers of affordable homes sooner, alongside other partners."*

The Council's Cabinet will be asked to agree the new house building programme when they meet on [September 7<sup>th</sup>](#).

- 6.9. The 2021 Housing Delivery Test indicates that Camden built 2202 new homes in the proceeding 3-year period. This fell below their 3-year target of 2891 new homes. However, this not surprising given the pandemic which meant that during 2020/2021 the council only delivered 528 new homes. In the preceding year the council delivered 922 new homes.
- 6.10. There is no information available online about the rate of delivery in the borough during the last 2 years, but it is clear from the above extract Camden has ambitious plans to deliver more housing and based upon pre pandemic rates of delivery it has the capacity to deliver enough homes in the space of just over 1 year to offset the 1056 homes in the borough that are being used for more than 90 days as short term lets.
- 6.11. The NPPF requires planning Local Planning Authorities to approach decisions positively and creatively and to base decisions on up-to-date local plans. However, in this case the council are reliant on a local plan that was written over 6 years ago. Camden is one step behind. They are seeking to protect homes that today only a select few can ever afford to live in, whilst stifling potential economic growth and job creation.

*Economic growth.*

- 6.12. The NPPF requires decision makers to place significant weight on economic growth. The previous leaseholder had operated a restaurant business called Crazy Bear, but unfortunately, they had to close in 2021 because their business was no longer viable as a result of the well documented challenges facing the hospitality industry.
- 6.13. The new owners, Sican Ltd took on a new lease and this included the upper floor accommodation. As detailed in the following section the units were not being used as permanent residential accommodation, instead they were being used for short terms lets, ancillary office and storage accommodation and temporary accommodation for staff.
- 6.14. The new owners therefore refurbished the upper floors, and these have been used since 2023 as 4-self-contained apartment for short term let.
- 6.15. The use of these apartments for short terms lets, in tandem with the operation of the ground floor restaurant is a key part of Sican's business strategy. The apartments provide value income that supports the restaurant use on the ground and basement floors of this property. Without this income it is likely the restaurant will go the way of its predecessor and it will cease to operate. Currently the business employs ?? full time and ?? part time staff.
- 6.16. For more information about the business please refer to the statement provided by the owners in Appendix 3 of this document.

*The use of the upper floors.*

- 6.17. It is unusual, but in this case the lease of the commercial premises also comes with the lease of the upper floor flats. This means that in practice the use of the upper floors of the appeal property has been closely linked to the operation of the restaurant.
- 6.18. The use of the premises as short term let accommodation is not recent as detailed in the planning history section of this statement, the previous leaseholder of the premises applied in 2018 to use the upper floor flats as serviced apartments.
- 6.19. That said, no single use has existed within any unit on the site for a continuous period of 10 years, but nonetheless the flats have not contributed to the borough's stock of permanent residential accommodation for many years.

*Harm to neighbours.*

- 6.20. The council's third reason for issuing the notice refers to harm to residential amenity of neighbouring occupiers due to the high turnover of occupiers in the apartments. However, there is only one adjoining residential flat in the upper floor of No. 19 Goodge Street, the remainder of the upper floors of both adjoining neighbours are in commercial use. The access to the upper floor in the appeal property is also on the right-hand side of the appeal premises which is furthest away from No. 19 Goodge Street.
- 6.21. In the context of the site and surroundings this is also very busy night-time area. Not only is there a restaurant on the ground floor of the appeal building, but there is also another restaurant on the ground floor of No. 19 Goodge Street. It is reasonable to assert that these 2 uses, along with the many other evening economy uses in the vicinity have the potential to create more noise and disturbance than the comings and goings of the occupiers of the serviced apartments.

## 8. Conclusion.

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- 8.1. There is a need for greater regulation of the private letting market, but as documented the threat posed to the borough's existing housing stock is over exaggerated. Also, if a unit is used for more than 90 days per year, this does not mean that the loss of the accommodation as a C3 use will be permanent. Short-term letting is allied to the fortunes of the market and as documented many smaller providers rely of the option of flipping back to permanent accommodation if there is any uncertainly.
- 8.2. The change of use to short term lets is contrary to Camden's adopted planning policies. However, these policies are over 6 years old and today one has to ask what are they seeking to protect? House price increases have put these homes way beyond the reach of the average Londoner. Rather than preserving homes for the rich, it is considered this loss (which may also only be temporary) should be balanced against more recent planning policies in the NPPF and the London Plan that promote economic development and the tourist economy.
- 8.3. For these reasons the Inspector is respectfully asked to allow the appeal and quash the enforcement notice.

Andy Hollins

Consultant Chartered Planner MA MRTPI.

October 2023.

## Appendices.

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Appendix 1 Extract from Article produced by Knight Frank (14/07/2022)



**The Intelligence Lab**  
Global property market insight

## **A fragmented market continues in the UK Serviced Apartment sector**


**Whilst the depth of the fallout from the pandemic appears to have been less severe for the Serviced Apartment sector, adapting the business model has been critical for survival.**

The serviced apartment sector has witnessed its share of closures. Some 2,300 units have permanently closed, with the appeal of the private rental market deemed for some, a more secure proposition during a time of crisis.

Despite an accelerated expansion post pandemic, the sector continues to remain highly fragmented, with independent operators accounting for over 40% of the supply. Yet, with greater brand proliferation, as key players seek to remain fresh and relevant in today's competitive marketplace, much of the growth in supply since the start of 2020 has come from the major operators that operate exclusively in the aparthotel sector.

Some 3,200 new serviced apartment units have opened in the UK since the beginning of 2020, with Staycity Group, edyn Group and Adagio aparthotels accounting for almost 60% of this new supply. In 2021, the top 5 serviced apartment operators added almost 1,100 units, with annual supply growth of 20%, which followed 10% growth the previous year. As at the end of June 2022, serviced apartment operators with a unit count in excess of 400 units, represent some 45% of the total UK supply.

Appendix 2. Examples of 2 bedroomed flats that are currently on the market for let or for sale on Whitfield Street.



**£1,200,000** ♡ Save


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**2 bed flat for sale**  
Whitfield Street, London W1T


Presenting a well maintained third floor apartment, with 2 private balconies. The flat includes a practical kitchen, a main bedroom with an ...

LEASEHOLD

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★ PREMIUM




**£7,800 pcm** ♡ Save  
**£1,800 pw**

🛏 2 🚿 2 🚪 1 ↻ 904 sq. ft

**2 bed flat to rent**  
Whitfield Street, Fitzrovia, London W1T

Short let. Situated on a picturesque Georgian street in the heart of fashionable Fitzrovia, a wonderful 2 bedroom 2 bathroom apartment which has ...

Listed on 12th May 2023

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Feedback



Appendix 3. Appellant's statement.