

Enforcement Delegated Report

Receipt date:

24/09/2024

Officer

Gary Bakall

Enforcement Case

EN24/0337

Breach Address

36 Pandora Road, London, NW6 1TT

Photos & Other material

On file

Authorised Officer Signature



08/10/2024

Alleged Breach

Without planning permission, the change of use from 16 residential units to use 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 the building from temporary sleeping accommodation and reinstate the property to use as residential accommodation, 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 two-storey plus lower ground end of terrace property that is sub-divided into flats. It appears the last lawful use was as 16 studio flats. It is located on Pandora Road on the junction with Solent Road. The area is predominantly residential in character. The flats which are the subject of this notice, are all small studio flats, 13 of which are the subject of live Prohibition Orders served under the Housing Act 2004.

The site is not listed nor within a conservation area

Investigation History

An enforcement investigation was opened about the use of this property for temporary sleeping accommodation following complaints from the members of the public who had carried out their own analysis of the building. Following this the Council's own investigation showed that the entire building is operating as one dwelling providing 14 short term let units.

A warrant was executed on Friday 12th July when the property was inspected with the police and various departments of the council. The lack of clothing and personal possessions within the units were very limited or non-existent, the limited and uniform range of domestic items such as cutlery and crockery, towels, toaster, iron, plates and so on, and the lack of food within the fridges and cupboards provided the appearance that the property was laid out as STLs especially when considered with the evidence of listings found online detailed below.

At the time of writing this report, a recent search of the property has revealed that the property is being advertised on multiple sites which include but not limited to booking.com as King Hotel¹ (Figure 1), as Pandora Hotel on getaroom.com² (Figure 2), King Hotel on Londonhotelsuk.net³ (Figure 3), 36 Pandora hotel on Laterooms.com⁴, lastminute-cottages.co.uk⁵, planetofhotels.com⁶, and rentbyowner.com⁷. The respective websites have been printed and stored on file.

The earliest available listing dates back to 10/03/24 found on trivago⁸ (Appendix A), listed as pandora Hotel, referenced to booking.com. The reviews found on this site is corroborated members of the public detailed in the complaint.

Some screenshots of various listings in their various guises are provided below.

The screenshot displays the Booking.com listing for King Hotel. At the top, there's a navigation bar with 'Home', 'Hotels', 'United Kingdom', 'Greater London', 'London', and 'Camden'. Below this, the listing title 'King Hotel' is prominent, followed by the address 'Pandora Road, Camden, London, NW6 1TT, United Kingdom' and a 'Great location - show map' badge. A 'Reserve' button is visible in the top right. The main content area features a grid of images: a bedroom with two beds, a bathroom with a washing machine, and an exterior view of the brick building. To the right, there are two rating boxes: 'Pleasant' with a score of 6.3 and 'Great location!' with a score of 8.3. Below the images is a map showing the hotel's location in Camden, London, with a 'Show on map' button. A 'Property highlights' section at the bottom right states 'Perfect for a 1-night stay!' and 'Top location: Highly rated by recent guests'. A text block at the bottom left provides location details: 'Situated in London, within 4.1 km of London Zoo and 5.1 km of Camden Market, King Hotel provides free WiFi throughout the property. The property is around 5.1 km from Madame Tussauds, 5.3 km from Paddington Station and 5.5 km from Portobello Road Market. The property is non-smoking and is located 3.6 km from Lord's Cricket Ground.'

Figure 1 – Booking.com as King Hotel⁹

¹ https://www.booking.com/hotel/gb/king-greater-london1.en-gb.html?aid=2378099&label=olr-gmcc-bing-consentno%3A0be8607e5c771d1aa83f077a45df8305&sid=eb8b072d84ffc213606387690e924385&all_sr_blocks=1266133506_399840214_2_0_0;checkin=2024-10-14;checkout=2024-10-15;dest_id=2601889;dest_type=city;dist=0;group_adults=2;group_children=0;hapos=1;highlighted_blocks=1266133506_399840214_2_0_0;hpos=1;matching_block_id=1266133506_399840214_2_0_0;no_rooms=1;req_adults=2;req_children=0;room1=A%2CA;sb_price_type=total;sr_order=popularity;sr_pri_blocks=1266133506_399840214_2_0_0_7200;sreporch=1728321995;srvpid=898c7a9f78ae03c6;type=total;ucfs=1&#tab-main

² <https://www.getaroom.co.uk/london-ca/pandora-hotel.htm>

³ <http://king.londonhotelsuk.net/en/>

⁴ <https://www.laterooms.com/hotel/london/36-pandora-hotel/>

⁵ <https://www.lastminute-cottages.co.uk/properties/united-kingdom/england/london/pandora-hotel-28d9c668-fac9-49c2-a560-36b88595371d>

⁶ <https://planetofhotels.com/en/united-kingdom/london/36-pandora-hotel>

⁷ <https://www.rentbyowner.com/property/pandora-hotel/BC-11530617>

⁸ <https://www.trivago.ae/en-AE/oar/pandora-hotel-london?search=100-37006776#:hasInteracted=true>

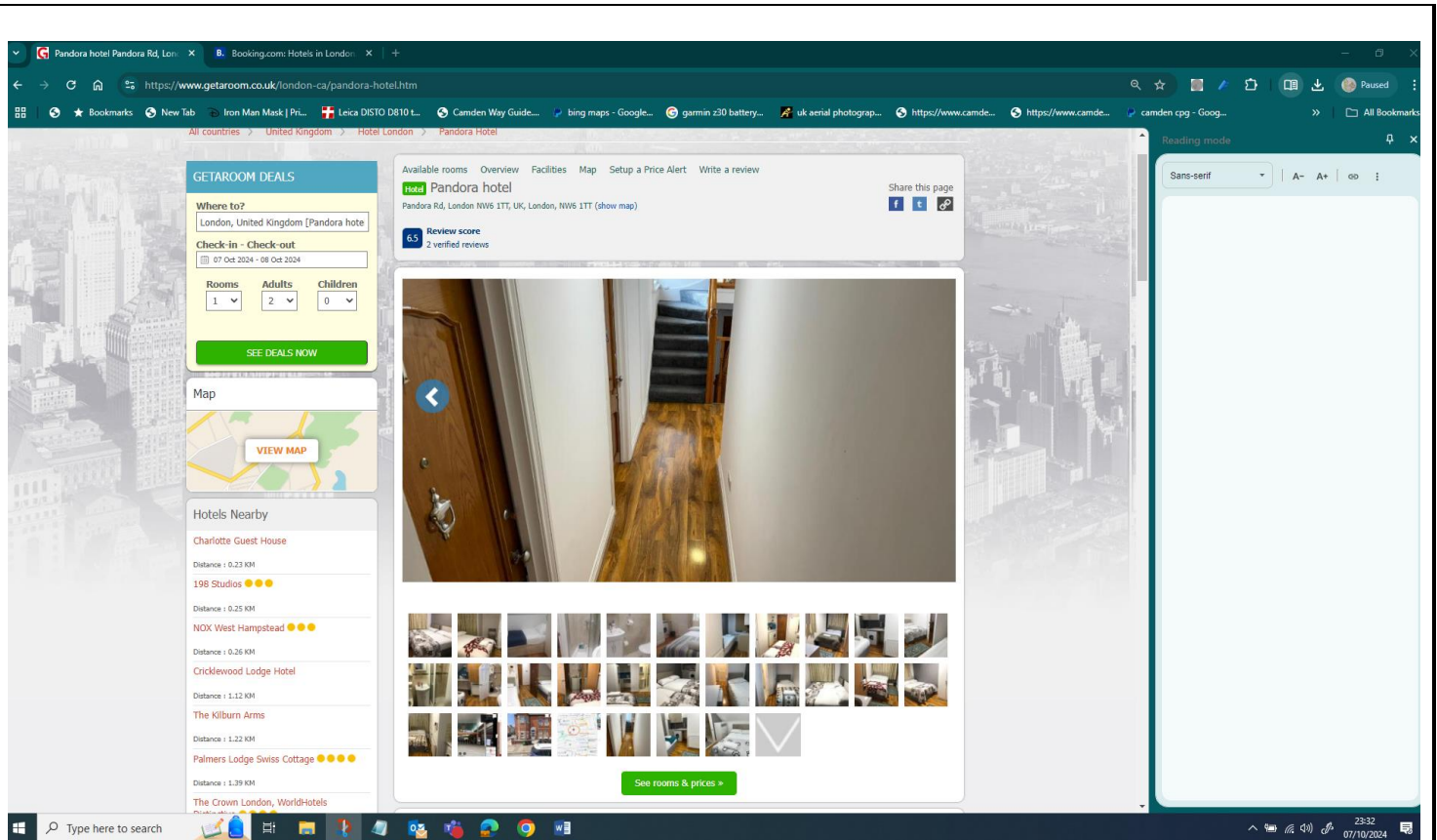


Figure 2 – getaroom.com as Pandora Hotel

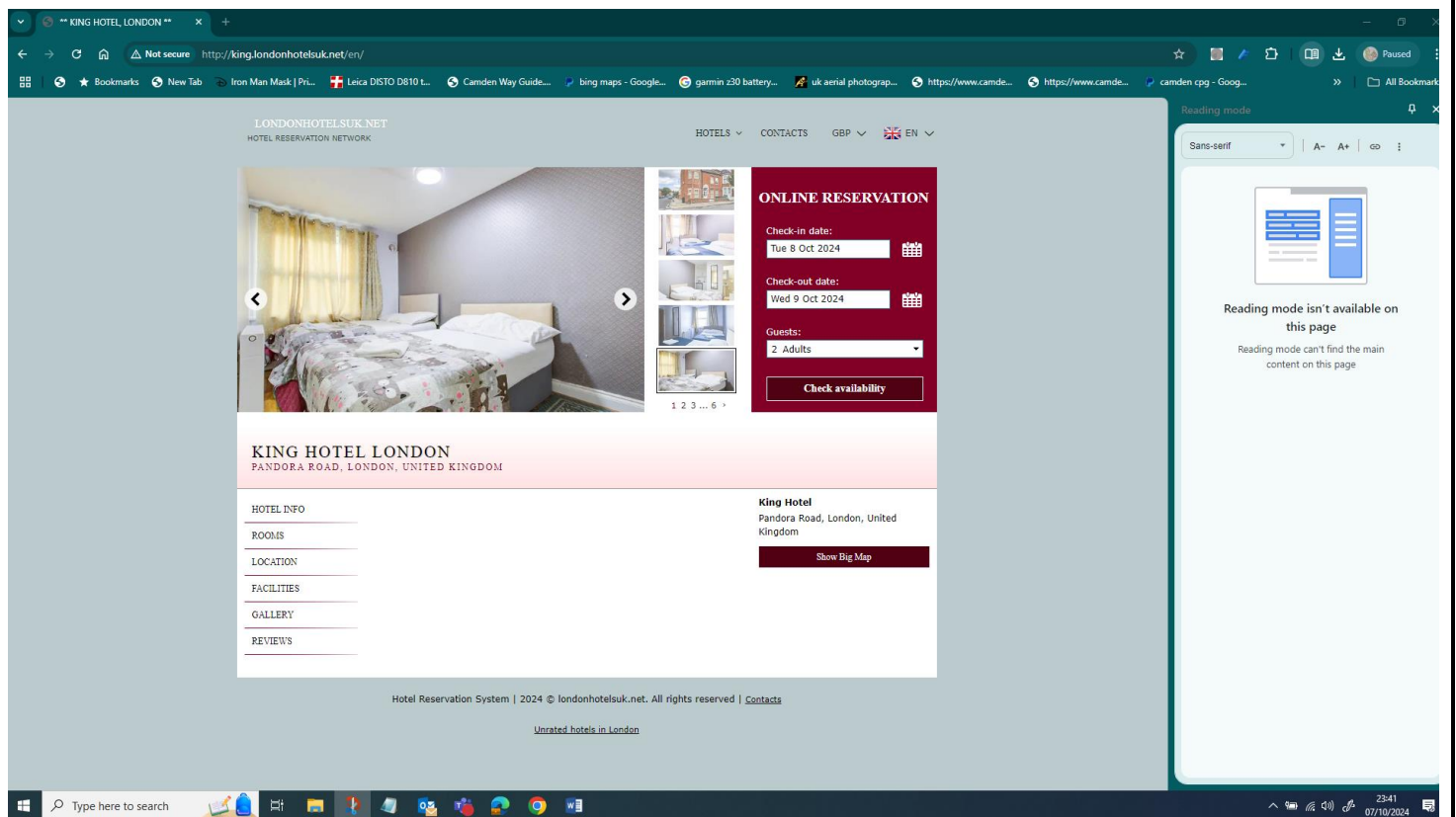


Figure 3 - Londonhotelsuk.net as King Hotel London

⁹ https://www.booking.com/hotel/gb/king-greater-london1.en-gb.html?aid=2378099&label=olr-gmcc-bing-consentno%3A0be8607e5c771d1aa83f077a45df8305&sid=eb8b072d84ffc213606387690e924385&a11_sr_blocks=1266133506_399840214_2_0_0;checkin=2024-10-14;checkout=2024-10-15;dest_id=-2601889;dest_type=city;dist=0;group_adults=2;group_children=0;hapos=1;highlighted_blocks=1266133506_399840214_2_0_0;hpos=1;matching_block_id=1266133506_399840214_2_0_0;no_rooms=1;req_adults=2;req_children=0;room1=A%2CA;sb_price_type=total;sr_order=popularity;sr_pri_blocks=1266133506_399840214_2_0_0_7200;sreporch=1728321995;srpvid=898c7a9f78ae03c6;type=total;ucfs=1&#tab-main

The property has been found to be advertising on various short term let websites like, booking.com, late rooms, Hotel.mix, Trivago and tripadvisor in various different guises; King Hotel, Pandora Hotel, 36 Pandora Hotel, Callcote road hotel, 36 King Star Hotel, Royal Studio and King Star Hotel. It is not immediately apparent as to why the property appears to be advertised under the various names, thought it would not be unreasonable to suspect it would be to circumvent the 90 day limit imposed by some sites to comply with the de-regulation act.

It is evident that the Property has undergone a change of use to form a single planning unit of temporary sleeping accommodation/short-term holiday lets falling within Use Class C1 Hotels consisting of 16 units.

Relevant policies / GPDO Category

National Planning Policy Framework (2023): 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 2021

Assessment

Issues: The development has resulted in the loss of 14 units of permanent residential accommodation in the Borough by virtue of their use as temporary sleeping accommodation.

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.

In this case the Council has many detailed reports from neighbouring residents about disturbance from numerous groups of holiday makers using this property. Due to the very poor management of the premises this includes people congregating outside while they try to contact the managing agent to gain access to the property or complain that the property is not the one as advertised sometimes late at night.

The property is advertised as a hotel on many websites littered with negative reviews.

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 this case, there has been a change of use of all the residential units in the property into temporary sleeping accommodation. This unauthorised units do not benefit from Section 25 of the Greater London Council (General Powers) Act 1973. As the residential use no longer exists, section 25 of the Greater London Council (General Powers) Act 1973 is not applicable.

The properties are being advertised on numerous short term let websites which indicates the provision of short term let accommodation. Each listing appears to contain different photographs, this is typical of the operators who have been known to use 'bait and switch' tactics where the accommodation shown and paid for is not as good as the accommodation you actually get when you arrive.

Due to the large number of complaints received by the Council about the STL use colleagues in the Environmental Health Housing Section considered that the 13 Prohibition Orders served on the premises may be being breached. The premises were inspected by planning officers, environmental health officers, housing and trading standards officers on 19th July this year. The premises were mostly empty but there was no evidence of long term residential use, all the rooms were very similar and hotel like with identical furnishings and provisions and ready to receive guests. The small number of guests admitted they were short term tenants on holiday. The property is clearly laid out and marketed as full time professional short term lets.

It is unclear when the change took place but the earliest listings for 36 Pandora Road are fairly recent so it is likely the use is not over 10 years old. Council tax was being paid for 16 residential units until very recently but appears to be paid for one unit at present.

Transport

Policy T1 seeks to advance sustainable transport by prioritising walking, cycling, and public transport. This is realised through enhancements to pedestrian-friendly public spaces, road safety measures, and the provision of crossings. The policy also entails contributions to cycle networks and facilities, as well as improvements to links with public transport. These comprehensive measures are implemented to ensure that the Council attains its zero-carbon targets. However, the current development fails to include provisions for cycle storage, thereby not aligning with the requirements set out in Policy T1. To address this deficiency, the Council aims to secure a Section 106 agreement, seeking a contribution towards cycle facilities in the area. In the absence of such an agreement, the development is deemed unacceptable as it does not adhere to the specified criteria in Policy T1 regarding sustainable transport measures.

Policy T2 requires all new non-residential developments will also be expected to be car free, including the redevelopment and/or conversions of existing sites with new occupiers to be car free with access to parking permits removed by a S106 Legal Agreement. Car free development has not been adequately secured in this case and nor has it been offered in any form.

Amenity:

The site is located within a residential location; with residential properties all around and has generated many complaints about noise and disturbance by arriving guests from local residents. On

this basis it is considered that the use for temporary sleeping accommodation has a detrimental impact on the amenity of the neighbouring occupiers, by way of noise and disturbance at unsociable hours.

Expediency:

Whilst in this case a Planning Contravention Notice has not been served it is not considered to be necessary given the amount of evidence found demonstrating that on the balance of probability a breach of planning has taken place. In a time of acute housing shortage, it is considered expedient to take action to ensure that such breaches cease and that a permanent change of use to short term let use by passage of time is prevented.

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 the building as temporary sleeping accommodation, 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 the building as 16 units of temporary sleeping accommodation.

WHAT ARE YOU REQUIRED TO DO:

- a. Cease the use of the building for temporary sleeping accommodation.

PERIOD OF COMPLIANCE: 1 Month

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

1. It appears to the Council that the above breach of planning control has occurred within the last 10 years
2. The unauthorised change of use has resulted in the unacceptable loss of permanent residential accommodation, which is contrary to policies A1 (Managing the impact of development), H1 (Maximising housing supply), and H3 (Protecting existing homes), of the Camden Local Plan (2017).
3. The high turnover of occupiers results in the potential for increased 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 Camden's Planning Guidance (Amenity) 2021
4. In the absence of cycle parking, the unauthorised use of the building fails to encourage sustainable modes of transport, contrary to Policies T1 (Prioritising walking, cycling and public transport) and DM1 (Delivery and monitoring) of the Camden Local Plan 2017.
5. In the absence of a legal agreement securing car-free housing, the unauthorised use of the building has the potential to contribute to parking stress and congestion in the surrounding area and fail to promote more sustainable and efficient forms of transport, contrary to Policies T2

(Parking and car-free development) and DM1 (Delivery and monitoring) of the Camden Local Plan 2017.