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## Appeal Decision

Site visit made on 1 May 2025

by **Felicity Thompson BA(Hons) MCD MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 04 June 2025

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**Appeal Ref: APP/X5210/C/23/3331656**

**26-28 Whitfield Street, London W1T 2RG**

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
  - The appeal is made by Sican Ltd against an enforcement notice issued by the Council of the London Borough of Camden.
  - The notice was issued on 6 October 2023.
  - The breach of planning control as alleged in the notice is without planning permission, the change of use of the property from residential use to use as temporary sleeping accommodation.
  - The requirements of the notice are to cease the use of the property for temporary sleeping accommodation.
  - The period for compliance with the requirement is one month.
  - The appeal is proceeding on the ground set out in section 174(2)(a) of the Town and Country Planning Act 1990 (as amended).
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### Decision

1. It is directed that the enforcement notice is corrected and varied by:
  - 1) Deleting the allegation in section 3 of the notice (the breach of planning control alleged) and replacing it with the following allegation: *Without planning permission the material change of use of the flats on the first, second, third and fourth floors of the property to use as temporary sleeping accommodation.*
  - 2) Deleting the allegation in section 5 of the notice (what you are required to do) and replacing it with the following requirement: *Cease the use of the flats for temporary sleeping accommodation.*
2. Subject to the correction and variation, the appeal is dismissed, the enforcement notice is upheld, and planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

### The Enforcement Notice

3. Section 173(2) of the Act says that an enforcement notice complies with section 173(1)(a) if it *enables any person on whom a copy of it is served to know what those matters are*, being the matters alleged to constitute the breach.
4. The land to which the notice relates is identified as 26-28 Whitfield Street and the plan accompanying the notice outlines the site in red. However, it is evident that the use for temporary sleeping accommodation is only taking place in the four flats on the first, second, third and fourth floors of the property since the ground and basement floors are in use as a restaurant. This should be clear from the allegation.

5. The appellant understood what development the notice seeks to target and therefore, I shall correct the allegation and consequent requirements – such that they follow logically, as set out in my decision. There is no injustice since the correction and variation do not enlarge the scope of the notice or requirements.

### **Preliminary Matters**

6. In their submissions the Council referred to several policies which were not referred to in the reasons for issuing the notice, including Policy CPG6 from The London Plan 2016 – which has been superseded by The London Plan 2021. I have therefore had regard to those policies referred to in the notice, and by the appellant – since the Council has had the opportunity to comment on those.
7. Letters were sent to the main parties notifying them of my intended visit and asking for arrangements to be made for me to be met at the site. Neither party attended nor sent a representative. However, I can determine the appeal based on the submissions and my observations, as there is sufficient evidence to understand the nature of the site given the points in dispute.

### **The appeal on ground (a) and the deemed planning application**

8. The main issues are the effect of the development on (i) the supply of housing in the borough and (ii) the living conditions of neighbouring occupiers with particular regard to noise and disturbance.

#### *Housing supply*

9. The appeal property consists of five storeys and as already stated is in use as a restaurant at basement and ground floor level with the four flats located across the upper floors. The property is located within the Charlotte Street Conservation Area and the Central London Activity Zone.
10. Policy H1 of the Camden Local Plan 2017 (Local Plan) relates to maximising housing supply and sets out that the Council will seek to exceed the target for additional homes, particularly self-contained homes by regarding self-contained housing as the priority land use of the Local Plan. Policy H3 of the Local Plan sets out that existing housing will be protected from permanent conversion to short stay accommodation intended for occupation for periods of less than 90 days.
11. The appellant commented on the age of the Local Plan however, Policy H3 seeks to safeguard against the loss of self-contained housing, which is consistent with the aims of the National Planning Policy Framework (Framework) to significantly boost the supply of homes. As such, I afford significant weight to this policy in decision making terms. Moreover, although I do not know what stage emerging Policy H3 has reached, I note that there is no material difference in the Council's proposed approach.
12. There is no dispute regarding the need for affordable homes in London and evidently Camden are aware of the need to address this. In broad terms the appellant contends that the flats would not be affordable to a Londoner on an average salary and would only be bought or rented by wealthy individuals or offshore companies, which would not benefit those in housing need or London's economy, providing an article from Knightfrank and screenshot from Zoopla in support.

13. However, their arguments regarding housing supply and affordability are simplistic, with little substantive supporting evidence. Moreover, the Council provided evidence of one and two-bedroom flats, within a one-mile radius, with rents substantially lower than that example provided by the appellant.
14. I acknowledge that the flats provide income which supports the restaurant. However, in the absence of substantive evidence about the benefits and/or potential impacts on the business, this is a matter of limited weight.
15. That the flats have not been used as permanent residential accommodation by the current owner, nor contributed to the boroughs supply of permanent housing for many years are matters of little weight. As is that the accommodation may revert to a C3 (dwellinghouses) use in the future – since there is no certainty of that.
16. I acknowledge that the development would support the visitor economy in Camden and London which is generally encouraged by Policy E10 of The London Plan 2021 and Policy E3 of the Local Plan. However, Policy E3 includes a requirement that tourism development and visitor accommodation does not lead to the loss of permanent residential accommodation, and the development conflicts with this policy.
17. I have not been provided with substantive evidence to demonstrate that the need for short-term visitor accommodation is more pressing than maintaining the borough's permanent housing stock.
18. The development has resulted in the loss of permanent residential accommodation, reducing the supply of homes within the borough. Accordingly, there is conflict with policies H3 and E3 of the Local Plan.

#### *Living conditions*

19. The appeal site is in a relatively busy mixed-use area, which includes residential uses above the neighbouring restaurant and on the opposite side of the road. The property is however, set back from the busier frontage on Goodge Street and the background noise levels in the evening are likely to be lower on this street.
20. The supporting text to Policy H3 of the Local Plan states that visitor lettings can increase the incidence of noise, sometimes at unsociable hours, and the high turnover of occupiers can harm community cohesion. The scale of the appeal development with four, two-bedroom self-contained flats and the consequential turnover of occupiers, as well as cleaning and maintenance staff, all combine to increase general comings and goings to the property beyond what would normally be expected of permanently occupied flats. This could give rise to an associated increase in overall noise and disturbance.
21. In my view the transient pattern of occupancy would tend to mean that occupiers have little connection to the local area and hence may be less inclined to respect the surrounding area and existing residents, meaning they have fewer concerns or realisation of causing noise and disturbance.
22. Whilst the flats have their own entrance, which is located away from neighbouring residential uses, I conclude that the pattern and nature of the occupation is more than likely, materially harmful to the living conditions of neighbouring occupiers with regard to noise and disturbance, which is supported by, albeit limited, representations from third parties. I therefore conclude that the development

conflicts with Policies A1 and A4 of the Local Plan which together seek to protect the amenity of neighbours.

### **Other Matters**

23. The appeal site is within the Charlotte Street Conservation Area. I have therefore paid special attention to the desirability of preserving or enhancing the character or appearance of this area in accordance with section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990. The development has not altered the external appearance of the building, and I am satisfied that the character and appearance of the Conservation Area has been preserved. However, this is a neutral factor which weighs neither for nor against the development.

### **Conclusion**

24. The development conflicts with the development plan when read as a whole, and the material considerations do not indicate that the appeal should be determined other than in accordance with the development plan.
25. For the reasons given, I conclude that the appeal should not succeed. I shall uphold the enforcement notice with a correction and variation and refuse to grant planning permission on the application deemed to have been made under section 177(5) of the 1990 Act (as amended).

*Felicity Thompson*

INSPECTOR