



Date: 15<sup>th</sup> March 2021  
Your Refs: APP/X5210/C/20/3265377  
Our Refs: EN20/0861  
Contact: Angela Ryan  
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Alice Connolly,  
The Planning Inspectorate  
2 The Square  
Bristol  
BS1 6PN

Dear Ms Connolly,

**Site at Studio Flat, 49 Tottenham Court Road, W1**  
**APPEAL BY: Knights In London Ltd**

**Against: Enforcement notice dated 5th November 2020 for the use of the property as short term sleeping accommodation.**

I write in connection with the appeal as referred above relating to the above referenced address.

The Council's case is largely set out in the Officer's delegated report, a copy of which was sent with the appeal questionnaire. In addition to the information sent with the questionnaire I would be pleased if the Inspector could take into account the following comments before deciding the appeal.

### **1.0 Background:**

- 1.1** In November 2019, an enforcement complaint was received advising the Council that the above unauthorised change of use had occurred. The Appellant states that the property had been converted from an office to permanent residential use in 2015. Planning permission had not been sought or granted for this change of use. Although the council would seek to protect the office use as employment floor space, after 4 years the residential use had become lawful and any action against this

residential use had become unenforceable. Later in 2019/20, the residential studio had become visitor accommodation used for short term letting. The council's policies also seek to protect residential use. It promotes new residential use (subject to other policies such as protecting employment uses) particularly given the housing shortage and as such, the short term letting is unacceptable resulting in loss of permanent residential accommodation.

For avoidance of doubt, had the office use continued, the change of use to temporary sleeping accommodation would also be subject to an enforcement notice had it been brought to the Council's attention.

**1.2** Permission is required for a change of use from permanent residential use to short term accommodation in London. In 2015 the Deregulation Act 2015 introduced a new section 25A to the Greater London Council (General Powers) Act 1973, which states that, in London, the use of residential premises as temporary sleeping accommodation does not involve a material change of use requiring planning permission if:

- the total number of nights that the residential premises is used as temporary sleeping accommodation (short-term letting) does not add up to more than 90 nights in a calendar year (1 January to 31 December); and
- the person(s) providing the accommodation is liable to pay Council Tax (not business rates) in respect of the premises where the accommodation is provided.

**1.3** Any C3 residential property used for short-term lettings for more than 90 nights in a calendar year requires planning permission as it would then constitute a change of use of the property from residential use (Class C3) to a short term let use (Sui Generis).

**1.4** An enforcement notice was issued on 5<sup>th</sup> November 2020, which would have taken effect on 17<sup>th</sup> December 2020. The notice required that within one month of it taking effect:

1. Discontinue the use of the premises as 'temporary sleeping accommodation' as defined at 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.

The notice was served for the following reasons: -

- a) The change of use has occurred within the last 10 years.
- b) The number of nights that the flat has been let on a short term basis has exceeded the 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) limiting the use as temporary sleeping accommodation to a maximum of 90 nights in any one calendar year. In doing exceeding the 90-day limit this has resulted in the unacceptable loss of permanent residential accommodation in the Borough which is contrary to policies H1 (Maximising housing supply), and H3 (Protecting existing homes), of the Camden Local Plan (2017) (**See Appendix 1**)

## **2.0 Relevant planning policy:**

**2.1** In arriving at its current position the London Borough of Camden has had regard to the relevant legislation, government guidance, statutory development plans and the particular circumstances of the case. The

development subject to this appeal was considered in the light of the following policies: -

## **2.2 Policy Framework: -**

**National Planning Policy Framework (NPPF)** Issued in March 2019: Paragraphs, 7, 8, & 58

**London Plan 2017:** policy 3.14(c)- since the appeal was lodged the current London Plan has now been updated to the **Publication London Plan 2020** and is the most up to date London Plan as a material consideration for planning decision. Policy H8 (a)- (Loss of existing housing and estate redevelopment) in the is relevant to this appeal (**See Appendix 2**)

## **2.3 Camden Local Plan 2017:**

The Council's policies within the Officer's Delegated Report are recent and up to date. Camden's Local Plan was on 3<sup>rd</sup> July 2017. The relevant policies are:

- 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

## **2.4 Camden's Planning Guidance:**

CPG- Housing (Adopted Jan 2021)

When assessing the development and considering taking enforcement action the Council applied guidance contained in the 2019 Housing guidance. The guidance contained in the updated 2021 version has not

been altered to any material extent where it would have altered the Council's decision or prejudice this current appeal. **(See Appendix 3).**

## **2.5 Camden's project on ceasing unlawful short term letting**

Camden is dedicated to ceasing short term letting particularly where it involves the loss of permanent residential stock. In doing so a short-term let project team has been set up in Camden in order to tackle the issues of the effects of short-term letting in the borough. The team includes a range of different services e.g., Licensing, Environmental Health, Council Tax, Housing. Leaseholder Services, to enable a joint-working approach using various statutory and legislative powers to reduce the numbers of unauthorised short term lets in Camden. This is to ensure that Camden's existing housing stock is not lost to this use and that residential developments are not given over to short term letting which is currently having an adverse impact on the number of residential units available for housing as well as tackling issues of anti-social behaviour and litter pollution associated with this type of use.

- 2.6 Camden's records show that there are over 4,000 properties in the borough that are being used for short term letting. These are only the ones that the Council are aware of, so the figure could be much higher. Short term letting has resulted in both a reduction in permanent residential accommodation in the borough, and also long-term tenants becoming homeless, which has exacerbated the housing crisis in Camden and also throughout London.

## **3.0 Comments on appellant's grounds of appeal:**

**The appellant has appealed on Ground A solely- that planning permission should be granted**

3.1 The pertinent points in the grounds of appeal can be summarised as follows:

- 1. The appellant occupied the building since 2005, originally as offices.*
- 2. The offices subsequently moved out of central London.*
- 3. Then the property was then converted to residential accommodation for his 2 staff.*
- 4. Conversion works began in 2014 (evidence can be provided but Covid restrictions makes access to records difficult).*
- 5. The property was occupied by the first occupier until 2015 and the second occupier for 5 years from 2015 to 2020.*
- 6. Since then the property has been used as a Serviced Accommodation business.*
- 7. Various circumstances are cited as to why this conversion occurred and why the property must stay occupied for security reasons.*
- 8. The appellant appears to be justifying the change of use from offices to residential in 2014*

3.2 The Council notes that the reason for serving the enforcement notice is loss of permanent residential use and this has not been addressed by the appellant.

3.3 The appellants grounds of appeal confirms the Council's view that the residential use existed and was occupied for 4 continuous years and therefore would now be the last lawful use.

3.4 The Council considers that the reasons put forward by the Appellant in order to justify the change of use from permanent residential to short term letting are very thin. The Council does not consider that any of the arguments put forward address the issue relating to the change of use or why planning permission should be granted, for instance issues are raised about vacancy of the offices, circumstances of staff

members, security, and court cases, all of which do not justify this unauthorised change of use. The current use at the appeal site is contrary to current Council policy H3 and London Plan Policy H8 that both seek to resist the loss of permanent residential accommodation in the borough and in London overall. Policy H3 of Camden's Local Plan 2017 stipulates that the Council will aim to ensure that existing housing continues to meet the needs of existing and future households by H3(a)- resisting development that would involve the net loss of residential floorspace.

3.5 The tenure for this type of use is very transient in nature where experience has shown that it results in making people homeless In London in order to accommodate this type of use that generates higher levels of income. The use can also result in creating other problems such as anti-social behaviour, litter pollution and noise nuisance at unsociable hours. There is also an acute shortage of permanent housing/affordable housing in Camden and London overall, and the Council is of the opinion that any loss of permanent residential accommodation to short term letting is harmful to Camden's housing stock. As such the Council does not consider the change of use justified, as there does not appear to be any extenuating circumstances, and therefore planning permission should not be granted. The Council asserts that the current use at the site is unacceptable in principle given that it is contrary to Camden and London Plan policies and is detrimental to the supply of permanent housing in the borough.

3.6 Council Policy H3 in Camden's Local Plan 2017 seeks to ensure that existing housing continues to meet the needs of existing and future household by resisting development that would involve a net loss of residential floorspace. Commentary in paragraph 3.68 of policy H3 also confirms that the Council aims to protect all types of existing housing against development that would involve the net loss of residential floorspace, which is a priority need in the Borough. Policy H3 (b) also

aims to protect housing from permanent conversion to short-stay accommodation intended for occupation for less than 90 days. The current use of the appeal site for short-term accommodation is unacceptable and is contrary to Council policy H3.

#### **4.0 Appeals dismissed regarding short term lets**

Camden has won several appeals relating to unauthorised use of properties for short-term letting. Some examples are set out below and the PINs decisions are attached in **Appendix 4**. They include:

- 341 Gray's Inn Road (APP/X5210/C/20/3248056 & APP/X5210/W/19/3243214)
- 89 Messina Road (App/X5210/C/19/3242982)
- First Floor 16 Conway Street (APP/X5210/C/19/3242034 & APP/X5210/C/19/3243954)

In respect to the appeals cited at 341 Gray's Inn Road and 89 Messina Road the Inspectors all supported the Council's view that the loss of permanent residential floorspace would cause harm to the borough's supply of housing and would not accord with the development plan as a whole, and against policies H3, H7 and E3 of Camden's Local Plan 2017. In respect to the appeal cited for 16 Conway Street the Inspector was of the view that a change of use had occurred.

#### **5.0 Conclusion**

- 5.1 The change of use from office to short term let accommodation is an unlawful use of the site and is also unlawful development. The change use of the property from office use to permanent residential use appears to have been made lawful over a passage of time and therefore the Appellant should reinstate permanent residential use at the site. The Appellant confirms that the property has been used for short term letting since 2020 and therefore confirms the unlawful use at the site. Therefore, the Council asserts that the enforcement notice has been legitimately served.



5.2 Policy H3 of Camden's Local Plan seeks to protect existing housing in the borough in order to meet existing and future needs. The use of the appeal site for short term accommodation as opposed to permanent residential use is against the spirit of policy H3, where the cumulative effect of short term letting has seen the gradual erosion of permanent residential accommodation in the borough.

5.3 On the basis of the information available and having regard to the entirety of the Council's submissions, including the content of this letter, the Inspector is respectfully requested to dismiss this appeal for the reasons stated on the enforcement notice.

If you require any further information or clarification on any matter associated with this case, please contact Angela Ryan on the above direct dial number.

Yours Sincerely,

A handwritten signature in black ink, appearing to read 'A Ryan', is positioned below the 'Yours Sincerely,' text.

Angela Ryan  
Planning Officer  
Culture and Environment Department