
Appeal Decisions

Site visit made on 2 October 2018

by Anthony J Wharton BArch RIBA RIAS MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 07 November 2018

Appeal A: APP/V5570/X/17/3187266

Flat 1, 40 Danbury Street, London N1 8JU

**Plus 29 other Appeals relating to various Studio/Flat Nos at,
40 Danbury Street, London N1 8JU (See Schedule below)**

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- All 30 appeals are made under section 195 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991 against refusals to grant certificates of lawful use or development (LDC).
 - The appeals are all made by Eurolets (the appellant company) against the decisions of the Council of the London Borough of Islington (the LPA).
 - The application reference for this appeal (Appeal A) is P2017/2346/COL and is dated 13 June 2017. It was refused by notice dated 18 October 2017.
 - The applications were all made under section 191(1) (a) of the Town and Country Planning Act 1990 as amended.
 - The use for which a certificate of lawful use (LDC) is sought is; 'the existing use in the layout of a studio flat consisting of a lounge/bedroom, kitchen and bathroom'.
 - In all cases the LDC applications are made on the basis that each of the Studio/Flats was lawful for planning purposes as a Class C3 residential unit on the respective dates of the applications for a certificate of lawfulness. The dates of the applications are not all the same.
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Decisions

- (i) Appeals A (Flat 1); B (Flat 2); F (Flat 6); G (Flat 7); H (Flat 8); N (Flat 14); O (Flat 15); Q (Flat 17); S (Flat 22); X (Flat 27); Y (Flat 28) and AA (Flat 30), are allowed.
 - (ii) Appeals C (Flat 3); D (Flat 4); E (Flat 5); I (Flat 9); J (Flat 10); K (Flat 11); L (Flat 12); M (Flat 13); P (Flat 16); R (Flat 18); T (Flat 23); U (Flat 24); V (Flat 25); W (Flat 26); Z (Flat 29); BB (Flat 32); CC (Flat 33) and DD (Flat 35) are dismissed.
 - (iii) See Lawful Development Certificates for each of the above allowed appeals.
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The applications and matters of clarification

- (a) Not all of the application forms for the LDC applications have been submitted. I have, therefore, taken each application date (except for Appeal A) as given by the appellant company in Section C of the respective Appeal Forms.
 - (b) On the application forms the appellant is named in each case as 'Eurolets'. I have used this name throughout these decisions although I have noted that in some submissions the company is entitled Eurolets (UK) Ltd and in others Euro-Lets UK Ltd. The company is a residential letting agency and landlord.
 - (c) In places some of the documents referred to were missing or incorrectly submitted. However, most of the discrepancies have been resolved.
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Introduction

1. The properties are mainly Studio Flats (with some one bedroom units), at No 40 Danbury Street, which lies within the Duncan Terrace/Colebrook Row Conservation Area. The buildings are part of a former factory premises accessed (via an alleyway/corridor) from Danbury Street, between Nos 38 and 42. They form a courtyard to the rear of the terraced dwellings in Danbury Street and St Peter Street. The units have been referred to in the past as 'The Courtyard'. Unit 37, on the first floor, is in commercial use and is occupied by High-Track Communications Limited.
2. The studios and flats, the subjects of these appeals, are Nos 1 to 18 inclusive; Nos 22 to 30 inclusive and Nos 33 and 35. It is indicated on behalf of the appellant company that flat Nos 19, 20, 21, 31, 34 and 36 will be the subject of LDC applications in due course. In each case what is being sought in each case is a LDC to confirm that the residential use (Class C3) of the unit was lawful for planning purposes on the various dates of the applications. An e-mail, (dated 11 August 2014) from the Council's Revenue (Council Tax -RS) section to the appellant company confirms the references and numbering for each of the 30 Flats. Flat 1 is shown as 4000; Flat 2 as 4001; Flat 3 as 4002 and so on up to Flat 18 which is 4017. Flat 22 is 4024 and the numbering continues up to Flat 30 which is 4032. Flats 32 and 33 are 4034 and 4035 respectively and Flat 35 is 4037. A copy of the referencing/numbering system is submitted as 'Exhibit B' of Mr Ward's Statutory Declaration – see below.
3. In the London Boroughs, planning permission is required for a change of use from a residential (Class C3) property to a 'short term let' (defined as occupation for less than 90 days). However, a Class C3 residential property can be used for short term lets for up to 90 days per calendar year (Deregulation Act 2015) without the need for planning permission. There is some evidence of short term lets and some of the tenancy agreements refer to 'Holiday Let'. The council in some instances refers to AirBnB type lettings. I have considered each appeal on the basis of all the submitted evidence for each separate application for a LDC.

Background information

4. Planning permission was granted (821245), on 22 July 1983, for the conversion of part of the factory premises (within the courtyard) to five No 1 bedroom flats and three No 2 bedroom flats including an extension to the roof at the first floor level of No 42 (Danbury Street). On 27 November 1984 planning permission (841703) was granted for a conversion to form seven flats, including extensions to the rear and at roof level and the demolition of part of the rear addition to No 40 and part of the roof to the factory (also known as No 40 Danbury Street).
5. It is stated on behalf of the appellant company that this suggests some of the flats, the subject of these LDC applications/appeals, may have the benefit of planning permission. However, there is nothing before me to indicate which of the flats, the subject of these appeals, might benefit from these earlier permissions and it could be the case that some of the flats granted permission have been altered to provide the studio flats which are currently in place. In any case I am only empowered to consider the LDC appeals on the basis of the applications made in relation to each of the 30 flats as existing on the date of each LDC application. I have dealt with each case on its merits and in relation to the common evidence and the studio/flat specific evidence. I have been provided with plans showing the layout of the courtyard, as well as being provided with individual plans of each studio flat.
6. In 2006 the appellant company states that it converted most of the rest of the factory premises into self-contained rented studios or flats. However, planning

permission had not been sought for these works. The LPA later opened an enforcement file in relation to No 40 Danbury Street and it is indicated that the properties/units were also known as 'The Courtyard'. The enforcement investigation also included the properties at Nos 22, 24, and 26 Danbury Street which are also in the ownership of the appellant company. The company supplied information to the LPA dating from between 2003 and 2015 purporting that all of the residential flat/studio uses were lawful for planning purposes.

7. However, the LPA found the submissions to be inconclusive and it was not considered expedient to continue with the enforcement action. The LPA considered that each individual unit of occupation would need to be considered on its own merits and that supporting evidence was necessary in each case to establish whether or not each unit was lawfully in Class C3 residential use. The enforcement action was not taken forward and was, therefore, closed in 2015. The applications, the subject of these appeals were then made on various dates during 2017.

8. In relation to these appeals the Council considers that the enforcement actions and the evidence submitted as part of the earlier investigations cannot carry any weight in relation to the assessment of the applications for the LDCs. It is contended that, in considering whether or not LDCs should be granted, each individual unit would have to be considered on its own merits and in relation to the evidence submitted. Clearly the enforcement action is part of the planning history which is a material consideration, but I agree with the LPA that each LDC application case must be assessed on its merits and on the evidence submitted in relation to each flat (including the common evidence). This is how I have dealt with these cases and I have reached my conclusions in relation to each flat on the balance of probability.

Matters of clarification re LDC appeals

9. An appeal relating to a LDC refusal is confined to the narrow remit of reviewing the LPA's reason for refusal. The planning merits of the case do not fall to be considered. These LDCs were applied for in order to establish whether the existing residential uses of the studios and flats were lawful for planning purposes under section 191(1)(a) of the Town and Country Planning Act 1990. To be deemed lawful (as Class C3 residential units) it is necessary for the appellant company to show, on the balance of probabilities, that each studio/flat had been in continuous Class C3 residential use for a four year period commencing, in each case, four years prior to the LDC application.

10. The LPA refused all of the applications on the basis that there was insufficient, precise and unambiguous evidence submitted to demonstrate, on the balance of probabilities, that the properties had been lawful as Class C3 residential units for a four year period prior to the respective LDC applications. In each appeal I have referred to the commencement date for the required 4 year period as the 'relevant date'. Evidence either side of the respective four year periods is not necessarily relevant to proving the 4 year continuous occupancy. However, in most cases it clearly assists in understanding the planning history of each unit.

11. National Planning Practice Guidance (PPG) indicates that an applicant for an LDC is responsible for providing sufficient information to support an application and that, without sufficient or precise information, a LPA may be justified in refusing a certificate. However, PPG also indicates that a refusal is not necessarily conclusive that something is not lawful because insufficient evidence has been presented. On appeal it is regularly the case that additional information submitted at appeal stage, as opposed to application stage, is taken into account. I have noted the Council's objections to the revised and additional information but, having taken into account

relevant case-law, I consider it appropriate to consider the additional information as part of each of the LDC applications/appeals before me.

12. In this case it is argued by the LPA that only the evidence which was submitted at the time of the applications should be considered. However, section 195 refers only to the refusal being '*well-founded*' or '*not well-founded*'. This relates to the decision itself and not to the reasons for it. In the case of '*Cottrell v SSE and Tonbridge and Malling BC [1982] JPL 443*', although it was held that the Secretary of State (SOS) cannot be compelled to issue a certificate where the opinion is that one should not be granted, conversely it was also held that for a LPA to argue that the only evidence to be considered was that placed before them as part of the application, denies the purpose of the LDC procedure.

13. The LDC procedure is aimed at the decision-maker arriving at an objective decision (on the balance of probability) based upon the best facts and evidence available. It is also the case that if subsequent information is available it is always open to an applicant to re-apply. In these cases revised declarations and additional evidence have been submitted and, in the light of the above and the fact that they relate to all 30 appeals, I consider it appropriate to take all of the submissions into account. On my behalf the case officer wrote to the Council indicating that I would be taking the information into account and allowed time for any further submissions to be made. I am satisfied that in taking this course of action no injustice has been caused to either the Council or the appellant company.

General comments relating to all 30 Appeals:

14. In some cases the Council appears to misunderstand the flat numbering system in relation to their Revenue Section (RS) reference numbering. See above for explanation of referencing/numbering system. I am satisfied that in most instances the flats referred to either indicate the correct flat number or its RS reference.

15. The Council regularly refers to the fact that utility bills have not been submitted. However, in some cases Gas and Electricity bills are billed directly to Eurolets and gas bills are sometimes split between properties. Charges for gas are shown in some cases as being part of the rent. This explains some of the discrepancies picked up by the Council where rental payments do not match those set out in the agreements.

16. In some cases telephone charges are also billed to Eurolets. This seems unusual for a long-term tenancy agreement and, in my view, is more akin to the letting of a studio or room on a short-term or holiday basis. Some of the evidence submitted for certain units includes '*Holiday Contracts*' for relatively short periods. The Council also submits evidence to suggest that some units were provided with towels and other items which would be more usually associated with a hotel room or AirBnB let.

17. From all of the evidence relating to payments (and from the agreements) by tenants it is clear that rental amounts depend on the payment date and in some cases there are penalties for late payments. Equally there are discounts in some cases for prompt payments on the same date each month. Again these factors go some way to explaining the discrepancies, referred to by the Council, between payments made and those specified in the agreements.

18. In some cases Council tax payments are paid to Eurolets and there is evidence from the Council's RS section listing the responsibilities for Council Tax for various flats at various times. Sometimes a tenant's name is stipulated and in other cases the correspondence makes it clear that Eurolets is responsible for paying the Council Tax for a particular flat. It would appear that the Council must have considerable Council Tax records but none have been submitted.

19. Eurolets Bank Statements typically identify the tenant but not the flat number until 2017. Some have reference numbers but others do not. The bank statements are not comprehensive but simply give snapshots of payments to reinforce a particular point relating to a tenant or the date of an agreement.

20. There is nothing in any of the submissions to indicate evidence of building works which are regularly cited as a reason for vacancies between tenancies. Generally the appellant company claims that the newly submitted 'Occupancy History' (OH) for each flat explains the gaps in the evidence. In many cases the Planning Statements (PS) and OHs do not correlate with each other or indeed with the submitted tenancy agreements ASTAs.

The gist of the Appellant's case common to all of the Studios/Flats at No 40 Danbury Street, formerly known as 'The Courtyard'

Revised Statutory Declaration dated 4/12/2017 by Mr Dean Richard Terry Ward (DOB 27/5/80) of Lakeview Estate, Old Ford Road, London E3 5TB

21. The gist of Mr Ward's declaration is as follows:

- He is Maintenance Co-ordinator of all 36 residential and the commercial property at No 40 Danbury Street and has held the role since February 2013.
- He confirms that the block plan 'Exhibit A' is a fair and accurate description of all of the properties at No 40 Danbury Street.
- He confirms that the previous and current numbering of the units at 40 Danbury Street is as detailed in an e-mail dated 11/8/2014 between the Council and the appellant company.
- He confirms that since February 2013 all 36 of the residential units have been consistently used as residential units with the exception of Unit 37 on the first floor. This is stated to be the only commercial unit.
- He confirms that it is his contractual obligation to complete all maintenance work; to ensure that fire alarm certificates are kept up-to-date and that he is required to gain access to all of the properties on a frequent basis.

Revised Statutory Declaration dated 22 February 2018 by Mr George Davis (DOB 22 February 1949) of 104 Queensway, West Wickham, Bromley BR4 9DY

22. The gist of the declaration by Mr Davis is as follows:

- He confirms that he has worked for the appellant company for a period of 30 years fitting cornices in most of the units.
- He declares that for at least 10 years the properties in The Courtyard, or No 40 Danbury Street, have been in continuous residential use in the form of studios, one bedroom properties and a 3 bedroom flat share on the first floor.
- He declares that unit No 37 is the only exception being a commercial unit.
- He declares that he took a leading role in the enforcement matters of the appellant company's properties (16 No) at addresses in City Road EC1V 1LA.
- He confirms that for at least the last 4 years these latter properties have been continuously occupied for residential use as studio, 1 bed and 2 bed units.
- He declares that since development of the properties only renovation works have been carried out and that occupation is on short/long term lets.

Statutory Declaration of Matteo Tiddia of Flat 35, 40 Danbury Street, London N1 8JU

23. This Statutory declaration is contained in the statement for Appeal DD: APP/V5570/X/17/3187315 relating to Flat 35. Matteo Tiddia declares that he has resided at 40 Danbury Street since 2008 and swears that to the best of his knowledge all properties except unit 37 have been in residential use since then.

Letter from High Track Communications Limited (HTCL) dated 11 October 2014

24. Although not on letterhead paper it confirms that the company uses Unit 37 on the first floor as office premises and has done so since at least 2004. It is stated that the remainder of the 'Courtyard' (now known as No 40 Danbury Street) has been 'fully occupied' as residential units since at least 2006.

The Council's case relating to the common evidence

25. The Council contends that there are inaccuracies within Mr Ward's declaration and contend that it should carry little weight. The declaration does not make any specific references to flats and does not confirm that all of the flats have been in continuous occupation for the necessary 4 year period. It is not considered to be precise or unambiguous and it is stated that the initial declaration did not confirm that the submitted application documents, including plans were true representations. It is further contended that the street-naming information and the e-mail from the Senior Revenue Inspector (SRI) both post-date the relevant 4 year dates.

My assessment of the common evidence

26. The obvious typographical error in relation to Mr Ward's date of birth was, in my view, inappropriately and unnecessarily referred to by the Council. I do not question Mr Ward's Statutory Declaration relating to his role as Maintenance Co-ordinator for the 37 units at No 40 Danbury Street and I accept the general timescales which he has set out. From my own inspection of some units and from the plans provided, I also accept his confirmation that 'Exhibit A' is a fair and accurate description of all of the properties at No 40 Danbury Street and that the numbering/referencing of the units at No 40 is as set out in the e-mail (dated 11/8/14) from the SRI (RS). The commencement of his role, in February 2013, is several months before the first of the relevant dates required for the start of the necessary 4 year period to determine whether or not the units were lawful as Class C3 dwellings on the date of each application for the LDCs. This evidence, therefore, generally fits well into the necessary timescales required to corroborate some of the evidence.

27. However, in itself, the evidence is not conclusive that any of the flats has been in continuous Class C3 residential use for the required 4 year period. Mr Ward confirms that since February 2013 all 36 of the residential units have been consistently (my underlining) used as residential units with the exception of the commercial Unit at No 37 the first floor. However '*consistently*' does not have the same meaning as '*continuously*'. The former means '*in every case or on every occasion*' or '*in a way that does not change or vary*'. The latter is defined as '*without interruption or gaps*', or, '*uninterrupted in time and without cessation*'.

28. Thus, whilst accepting that (since at least February 2013) each of the studios/flats has been in some form of residential use, the evidence is not conclusive as to whether that residential use was continuous and without gaps. Nor is it conclusive that that the use was a genuine Class C3 residential use rather than a short term residential use which might have been in excess of the 90 days per calendar year allowance. Therefore it not conclusive regarding the type or status of the residential use. As indicated above (paragraph 3) a Class C3 residential use is not the same as a short-term let residential use. I accept that a Class C3 residential flat could be let on a short term basis for up to a total 90 days in any calendar year. But neither the appellant company nor the Council has provided evidence to indicate the exact status of the units (whether Class C3 or purely short-term lets within the 90 day allowance) over the relevant 4 year periods.

29. With regard to the declaration by Mr Davis I accept he has worked for the appellant company for a period of 30 years 'fitting cornices in most of the units'. In his declaration he states that the properties in The Courtyard, or No 40 Danbury Street, have been in continuous (again my underlining) residential use in the form of studios, one bedroom properties and a 3 bedroom flat share on the first floor. He also confirms that unit No 37 is the only exception being a commercial unit. The references to other properties in the ownership of the appellant company (in City Road) are not directly relevant to these cases. I note that he states that, since the development of the properties, only renovation works have been carried out at both addresses and that occupation has been on what he describes as 'short/long term lets'. However, at No 40 there is no firm evidence to indicate that studio flats were not altered or that they might have been formed from larger units which had been subject to the planning permissions referred to above when the factory was initially converted to residential use.

30. There is no further evidence specifically from Mr Davis to corroborate his contention that the properties in The Courtyard, or No 40 Danbury Street, have been in continuous residential use for the required 4 year period. Nor does he give any further indication of the type of the 'short/long term' lets. These could have been in Class C3 use but equally they could have been short-term lets, either in accordance with the 90 days per calendar year allowable or not in accordance, as the case may be. Thus, like the declaration of Mr Ward, this revised declaration cannot in itself be conclusive evidence that a continuous 4 year period of residential occupancy has occurred at each and every one of the appeal units.

31. The same applies to the declaration of Matteo Tiddia contained in the statement for Appeal DD; APP/V5570/X/17/3187315 relating to Flat 35. I accept that he has resided at 40 Danbury Street since 2008 and that to 'the best of his knowledge all properties except unit 37 have been in residential use since then'. However, this is far from conclusive that the Class C3 uses (for whatever types or periods of letting) have been continuous for the necessary 4 year period from 23 August 2013. In any case 'living at No 40' is not strictly the same as living at No 35. Having read all of the files it is clear that some residents have lived in more than one unit and that some may have moved to a better, larger or smaller studio during their periods of residence. The letter from HTCL is also not conclusive in any way with regard to any continuous use of the flats for a residential Class C3 use.

32. Thus the Statutory Declarations and the rest of the common evidence can only be considered as part of the whole of the appellant company's case relating to each flat. In each case I have considered the overall evidence and have reached a decision on the specific details submitted. My conclusions are made on the basis of the balance of probability. I now turn, therefore, to the specific evidence relating to each of the Studio/Flats.

Appeal A: APP/V5570/X/17/3187266
Flat 1, 40 Danbury Street, London N1 8JU

Introduction

33. The initial application, dated 13 June 2017, was declared to be invalid. The application was finally validated on 23 August 2017. Thus it must be shown that the studio flat has been in continuous use in Class 3 residential since 23 August 2013. The Council tax reference (from the RS e-mail referred to above) is 4000. Flat 1 is on the ground floor and is stated to have an overall area of 26.85m²

Summary of the Appellant's case

34. As well as the general evidence relating to all of the flats at No 40 (the former Courtyard) the appellant company relies upon the evidence set out below. The tenancy agreement in the name of Jeremy Zhu post-dates the date of the application for the LDC and is, therefore, outside of the required 4 year period.

- Eurolets Occupancy History (OH), 12/12/12 to-date, shows occupation by 2 different tenants and one unoccupied period, 12/06/17 to 7/9/17
- Assured Short-hold Tenancy Agreement (ASTA) (Leonid Krykhtin) 12/12/12 to 11/06/13 (citing 26 Danbury Street, Eurolets' office, ref. 4000) £953 pcm
- ASTA (Leonid Krykhtin) 24/04/2014 to 24/10/2014 (citing 40 Danbury Street ref.4000) discounted rent £902.41 pcm (includes £35.75 Council Tax)
- Gas and Electricity to be paid by tenant
- Email (Senior Revenues Inspector - SRI) shows Flat 1 as ref 4000
- Eurolets Bank Statements showing payments, L Krykhtin on 31/05/13 (£766); 01/07/13 (£866); 02/09/13 (£866); 31/07/13 (£866); 24/12/13 (£866)
- Emails (Eurolets and Leonid Krykhtin) 29/11/13 stating moving in date as 12/12/12 and emails 10/05/17 announcing moving out date of 10/06/17
- Eurolets Bank Statement (Leonid Krykhtin) 28/04/14 to 26/05/17 showing regular monthly payments £906
- Eurolets Bank Statement (Leonid Krykhtin) 28/05/15 to 27/04/17 showing regular monthly payments £906
- ASTA (Jeremy Zhu) from 08/09/17 to 07/03/18
- Eurolets Bank Statements (Jeremy Zhu) 08/09/17 to 20/02/18 showing regular monthly payments matching Agreement
- In conclusion, bank records show the 'rolling over' of Tenancy Agreements and that collectively the evidence supports the claim of continuous 4 year occupancy

Summary of the Council's case

35. In addition to the common evidence referred to above the gist of the Council's case is as follows:

- The ASTAs (Leonid Krykhtin) do not mention a specific flat but refer to 26 Danbury Street and 40 Courtyard. The references do not match the SRI's.
- The monthly amounts shown on the bank statements - 28/05/15 and 27/04/17 do not match the rent noted in the Tenancy Agreement
- Emails are not corroborated and do not contain evidence to support the case
- No utility bills or proof of Council Tax payments have been submitted
- In conclusion, it is considered that the evidence is insufficiently precise and unambiguous to support the claim of 4 year's continuous occupancy

My Assessment

36. Although the Council rightly indicates that the ASTAs do not refer to a specific flat, the first one, dated 12 December 2012 has a reference number of 4000. The e-mail dated 11 August 2014 from the Council's RS section shows reference 4000 to be for Flat 1. Even though this post-dates the relevant date of 23 August 2013, the Council has not provided any evidence of its own to show that the ASTA did not relate to Flat 1. Mr Krykhtin had confirmed by e-mail (dated 29 November 2013) that he had vacated Suite 4029 (Flat 27) on 11 December 2012.

37. Based on the evidence relating to the submitted numbering and referencing system and the correspondence between the tenant and the appellant company, I accept that Mr Krykhtin's occupation of Flat 1 (reference 4000) commenced on 12 December 2012. The Council accepts, in the 'Delegated Report', that the e-mail relates to the tenant moving in and that this accords with both the PS and the first ASTA. The e-mail is dated 29 November 2013 and clearly indicates that Mr Krykhtin moved into unit '4000' on 12 December 2012. The ASTA had an expiry date of 11 June 2013 but it also had a 'roll-over' clause and a 'Discount Rent' agreement.

38. There are various bank statements showing payments of £866 to Eurolets by Mr Krykhtin in July, August, October and December 2013. The sum of £866 is shown as 'Discount Rent' in the second ASTA. This also shows an additional sum payable of £35.75 for Council Tax, giving a total of £902.41 as opposed to the full rent of £989.07, which had included the same amount payable for Council Tax. It seems to me, therefore, that this discount arrangement could explain the Council's points about the discrepancies in agreement/rent amounts paid by Mr Krykhtin.

39. Although the second ASTA has a changed (by hand) reference of 4001 on the front page, it is referenced 4000 on the second page, as well as the fourth page where it states 'Room Ref No 4000'. The second ASTA had an expiry date of 24 October 2014 but also had a 'roll-over' clause. The case for the appellant company is that this second ASTA was 'rolled-over' and the Council has not been able to challenge that with evidence of its own. Such evidence might have been in the form of RS records showing Council Tax payments in the name of the occupier of Flat 1 (ref 4000). I acknowledge that there are unexplained discrepancies in rental amounts on ASTAs against those received by Eurolets. However, as referred to above, rents are generally discounted for prompt payment and Council Tax was included in the rent for Flat 1.

40. The evidence does not fully indicate that Flat 1 was occupied by Mr Krykhtin between 23 August 2013 and the commencement of the second ASTA in his name on 24 April 2014 (again for unit reference 4000, Flat 1). However, it seems unlikely to me that he had not continued occupation of the same unit during that period. Clearly other utility bills would have assisted the appellant company's case but, on the basis of all the evidence before me, it is my view that Flat 1 was occupied by the same tenant throughout the period stated. The Council tax had been in effect since 1 April 2014 and the valuation list for Flat 1 is dated 21 May 2017.

41. There is then a significant gap in evidence (other than the bank statements) between the October expiry date of the second ASTA and the date whereby Mr Krykhtin gave notice to leave on 10 June 2017. This notice was by e-mail from Mr Krykhtin (using the same e-mail address as his previous e-mails to the company) and was dated 10 May 2017. I acknowledge that the e-mail does not give a number or a reference for the unit to be vacated. However, on the basis of all of the other evidence and the lack of any evidence to the contrary from the Council, it is my view that on the balance of probabilities Flat 1 had been occupied by Mr Krykhtin from 12 December 2012 until 10 June 2017, as stated in the PS.

42. Despite the gap between 10 June 2017 and 23 August 2017 (the date of the validated application), it seems to me that on the balance of probabilities a period of 4 years occupation of the flat has been demonstrated. The initial application was dated 13 June 2017 and this was only 3 days after Mr Krykhtin vacated the flat.

43. The number of days between the end of Mr Krykhtin's tenancy (10 June 2017) and the start of Mr Zhu's (9 September 2017) is 90 days and this would, in any case

accord with the limit of the 90 days per calendar year for which a Class C3 residential can be used for short-term lets without a change of use occurring.

Conclusion

44. I conclude, therefore, on the balance of probability that Flat 1 has been in occupation as a Class C3 residential unit for the necessary 4 year period and I consider that the appellant company has discharged its duty to provide sufficient precise and unambiguous evidence to justify the issuing of a LDC. It follows that I find that the Council's decision not to issue a LDC was not sound and that Appeal A succeeds. A LDC will be issued.

Appeal B: APP/V5570/X/18/3195569 Flat 2, 40 Danbury Street, London N1 8JU

Introduction

45. The application is dated 8 June 2017. Thus it must be shown that the unit has been in continuous use in Class 3 residential since 8 June 2013. The Council tax reference (from the e-mail referred to above) is 4001. Flat 2 is on the Ground Floor and is stated to have an area of 26.66m².

Summary of the Appellant's case

46. As well as the general evidence relating to all of the flats at No 40 (the former Courtyard) the appellant company relies upon the evidence set out below.

- Statutory Declaration by John Boyle dated 04/12/17 stating that there have been no breaks in his tenancy of Flat 2 as a residential property since 24/12/12
- Eurolets OH, 29/05/18 to-date, citing Tenancy agreements and bank statements and show occupation by one tenant
- ASTA for 24/12/12 to 24/06/13 citing 26 Danbury Street, ref.4001 (£1018.33 pcm) No utility or council tax included
- ASTA for 25/04/15 to 24/10/15 citing Flat 2 (£1036.66 no utility or CT included)
- Eurolets Bank statement for 23/06/15 to 24/05/17 showing regular rent payments matching those in the ASTA
- Eurolets Bank statement 23/03/17 to 23/02/18 showing regular payments
- In conclusion, bank records are evidence that ASTAs have been 'rolled over' and that collectively the evidence supports the claim of continuous 4 year occupancy

Summary of the Council's case

47. In addition to the common evidence and cases set out above the gist of the Council's case is as follows:

- The tenancy agreements do not cover a continuous period of 4 years.
- The 'OH' is not an official document and is not wholly backed up by the evidence (bank statements for the period 25/06/13 to 24/04/15 are not provided)
- Bank statements (23/06/15 to 24/05/17) do not cover a continuous period of 4 years and do not indicate the flat for which rental payments are being made
- In conclusion, the absence of any utility bills, council tax payments and the gaps in the evidence (e.g. the limited periods covered by the tenancy agreements) do not support continuous occupancy of 4 years

My Assessment

48. Mr Boyle confirms in his Statutory Declaration (SD) that he entered into a tenancy agreement to reside at Flat 2, No 40 Danbury Street on 24 December 2012. He also states there have been no breaks in his tenancy of the Flat. The first ASTA in his name started on 24 December 2012 and although the address is given as 26 Danbury Street (the Eurolets office) the reference is 4001 which correlates with the RS referencing system for Flat 2. The expiry date was 24 June 2013. It seems to me, therefore, that on the relevant date of 8 June 2013 Mr Boyle occupied Flat 2.

49. The second ASTA in Mr Boyle's name is dated 25 April 2015. It specifically refers to Flat 2 but there is no RS reference number. The Council Tax banding of level C was effective from 1 April 2014. Between the end of the first ASTA in June 2013 and the start of the second one in April 2015 there is no information at all which can confirm whether or not Mr Boyle, or any other person for that matter, occupied Flat 2.

50. In his SD Mr Boyle solemnly declares that he had always used the premises as a residential property and that it had not been used for any other purpose. He confirms that it was previously known as No 26 Danbury Street, Unit 4001 and is now known as Flat 2 No 40 Danbury Street. Like Mr Ward he confirms that the submitted plan is a fair and accurate representation of the property and that since the start of his tenancy there have been no internal alterations but only minor maintenance work. This accords with the SD of Mr Davis. He goes on to declare that to the best of his knowledge all of the units within No 40, with the exception of No 37, have been used as residential properties.

51. Although the Council stresses that the ASTAs do not cover a continuous 4 year period they both had 'roll-over' clauses. The first ended just after the relevant date and the second falls well within the 4 year period. I acknowledge that the 'OH' is not an official document; that some bank statements are missing and that there is a notable absence of utility bills and Council Tax payments which might have been paid. However, with regard to the latter, the Council has not provided any of its own RS records to indicate what payments might have been made. In addition to this the Council has not been able to counter that part of Mr Boyle's SD which solemnly declares that he held a tenancy of Flat 2 (ref 4001) from 24 December 2012 to well after the date of the LDC application.

Conclusion

52. I find no reason to question the SD by Mr Boyle. Despite the gaps in evidence it seems to me on the balance of probabilities, that on the date of the LDC application Mr Boyle had occupied Flat 2 (ref 4001) for a continuous period of 4 years from 8 June 2013 until 8 June 2017. I find the Council's decision not to issue a LDC to be unsound and the appeal, therefore succeeds. A LDC will be issued for Flat 2.

Appeal C: APP/V5570/X/17/3187319 Flat 3 40 Danbury Street, London N1 8JU

Introduction

53. The application is dated 9 June 2017. Thus it must be shown that the unit has been in continuous use as Class 3 residential since 9 June 2013. The Council tax reference (from the e-mail referred to above) is 4002. The flat is on the ground floor and has an area of 27.13m².

Summary of the Appellant's case

54. As well as the general evidence relating to all of the flats at No 40 (the former Courtyard) the appellant company relies upon the evidence set out below.

- Eurolets OH citing tenancy agreements and bank statements show occupancy by one tenant from 24/02/10 to date
- ASTA (Isabel Montesdeoca Brito) 24/02/10 to 24/07/10 citing 40 Danbury Street (ref 4002) £901.00 and telephone rental £40 (CT and gas/electric not included)
- Emails 12/03/15 (Isabel Montesdeoca and Eurolets) re an extra door key
- Eurolets Bank Statement 13/11/15 to 24/11/17 (Montesdeoca M) showing regular monthly payments rent £955 and telephone £40
- Eurolets Bank Statement (Montesdeoca M) 25/11/15 to 25/05/17 showing regular monthly payments: rent £955 and telephone £40
- Eurolets Bank Statement (Montesdeoca M) 23/06/15 to 25/05/17 as above
- Eurolets Bank Statement (Montesdeoca M) 29/03/17 to 12/03/18 as above
- In conclusion, the officers report acknowledges that the ASTA was 'rolled over' and the evidence in the round supports the case 'on the balance of probability'

Summary of the Council's case

55. In addition to the common evidence and the case as set out above the gist of the Council's case is as follows:

- The ASTA does not specify Flat 3, but gives a reference number of 4002
- The bank statements corroborate with the agreed rent figure, but do not cover the whole 4 year period and do not make reference to Flat 3
- The emails are uncorroborated and do not contain specific information
- No utility bills or Council tax payment
- Evidence is insufficiently precise and unambiguous

My Assessment

56. There is only one ASTA submitted as evidence in relation to this appeal. This is dated 24 February 2010 with an expiry date of 24 August 2010. There is a roll-over clause. However, between August 2010 and the date of the LDC application there are no further documents submitted until the bank statement information in May 2015. As indicated by the Council the tenancy agreement does not specify Flat 3, but gives a reference number of 4002. This correlates with the RS numbering and referencing system (see previous cases and e-mail) so I accept that the flat to which this ASTA relates is Flat No 3.

57. Also, as indicated by the Council, the bank statements submitted correlate with the agreed rental figure, but do not cover the whole 4 year period and do not make reference to Flat 3. The submitted e-mails do not assist because they also do not specifically refer to Flat 3 or reference 4002.

58. With regard to the 'rolling-over' of the ASTA the Council's Delegated Report appears to accept that the contract was 'rolled-over' and an e-mail from a Council officer dated 10 March 2015 indicates that the enforcement case was to be closed. However, the e-mail does not give any indication that the Council accepted that the unit had been in continuous occupation as a Class C3 residential use for a required 4 year period.

59. I find it unusual that if this one tenant had been in occupation from February 2010 until at least the date of the application, there is no further documentation

from either the tenant or the appellant company. If the bank statement information had related back to the flat then this would have corroborated the PS and the OH. In the absence of any utility bills, Council tax payments or other documentation linking this tenant (or any other for that matter) with Flat 3, I do not consider that the appellant company has discharged its burden of proof relating to a continuous Class C3 residential use for the required 4 year period.

60. I also find the lack of a Statutory Declaration in this case to be unexplained. If the tenant had indeed lived at Flat No 3, in the same way that Mr Boyle had occupied Flat 2, I see no reason why a SD could not have been provided in this case.

Conclusion

61. In conclusion I do not consider that the appellant company has precisely and unambiguously indicated that Flat 3 was in continuous use as a Class C3 residential unit between 9 June 2013 and 9 June 2017, the date of the LDC application. It follows that the appeal must fail and that I find the Council's decision not to issue a certificate to be well-founded.

Appeal D: APP/V5570/X/18/3195572 Flat 4, 40 Danbury Street, London N1 8JU

Introduction

62. The application is dated 9 June 2017. Thus it must be shown that the unit has been in continuous use as a Class 3 residential since 9 June 2013. The Council tax reference (from the e-mail referred to above) is 4003. The plan of the studio Flat 4 is shown to be on the ground floor with a n overall area of 24.06m².

Summary of the Appellant's case

63. As well as the general evidence relating to all of the flats at No 40 (the former Courtyard) the appellant company relies upon the evidence set out below.

- Eurolets OH citing tenancy agreements and bank statements show occupancy by one tenant from 24/01/13 to date
- ASTA (Gloria Quatela) from 24/01/13 to 24/07/13, citing 26 Danbury Street ref.4003 (£966.67 not including utilities or CT)
- Email (Eurolets and Gloria Quatela) 19/12/13 re late payment of rent
- Email (Eurolets and Gloria Quatela) 13/04/17 re parcel delivery to Flat 4
- Eurolets Bank Statement (Quatela G A H) 29/05/15 to 02/05/17 showing payments: £966 rent up to 01/09/15 then £1040 rent and £40 telephone
- Eurolets Bank Statement (Quatela G H A) 03/04/17 to 02/03/18 showing regular monthly payments of the same amount as above citing for Flat 4
- The information submitted is to show the residential usage for over 4 years

Summary of the Council's case

64. In addition to its case in relation to the common evidence set out above the gist of the Council's case is as follows:

- Not all stated (see Eurolets OH) ASTAs have been provided
- The contract does not refer to Flat 4 specifically
- Bank Statements for 29/05/2015 to 02/05/2017 do not identify Flat or that payments are for rent. They do not tally with the rent as stated in the contract
- Emails are uncorroborated and do not indicate continuous occupation

- In conclusion, the evidence submitted is not considered to be sufficient

My Assessment

65. There is only one ASTA submitted as evidence in relation to this appeal. This is dated 24 January 2013 with an expiry date of 24 July 2013. There is a roll-over clause. The expiry date post-dated the relevant date of 9 June 2013. On that date, therefore I accept that the tenant Gloria Quatela occupied the studio flat unit at No 40 which had the reference number 4003. The RS e-mail referred to above showed reference 4003 as being Flat 4 and I am satisfied, therefore that this ASTA related to Flat 4. Although the PS refers to a second ASTA commencing on 27 April 2013, the Council has indicated that this was not submitted.

66. Between July 2013 and December 2013 there are no submitted documents with the exception of an e-mail dated 19 December 2013 from Eurolets to Gloria Quatela. This indicated that the tenant had not paid rent for November 2013. However, it would appear from the reply that the November 2013 payment had been made in cash. There is no reference of Flat 4 or reference 4003 in the e-mails.

67. The next documents submitted in support are bank statements commencing in May 2015 and these carry through to March 2018. However, the statements do not have a Flat or a RS reference number and it is not clear, therefore, that the payments were for rent for Flat 4. With regard to the missing second ASTA it seems odd that this was required immediately on expiry of the first one. The first had a 'roll-over' clause and it appears to have been the norm for ASTAs to be 'rolled-over'.

68. The need for a new one at that time could suggest that it was for a different unit. Because there is no link between the rental payments and Flat 4, it is not evident that Gloria Quatela occupied Flat 4 following the expiry of the first ASTA. The lack of a Statutory Declaration also casts doubt in my mind that this particular tenant occupied Flat 4 for a continuous period of 4 years between 9 June 2013 and 9 June 2017.

Conclusion

69. It follows that I do not consider that the appellant company has discharged its duty to indicate, on the balance of probability that Flat 4 has been in continuous Class C3 residential use for the required 4 year period. In my view, therefore, the Council's decision not to issue a LDC in this instance was well-founded. The appeal fails and a LDC will not be issued.

Appeal E: APP/V5570/X/17/3187293 Flat 5, Danbury Street, London N1 8JU

Introduction

70. The application is dated 13 June 2017. Thus it must be shown that the unit has been in continuous use as Class 3 residential since 13 June 2013. The Council tax reference (from the e-mail referred to above) is 4004. Flat 5 is on the ground floor and is shown to have an area of 23.97m

Summary of Appellant's case

71. As well as the general evidence relating to all of the flats at No 40 (the former Courtyard) the appellant company relies upon the evidence set out below.

- Eurolets OH citing tenancy agreements and bank statements show occupancy by three different tenants and unoccupied 26/2/15 to 10/4/15 and 8/7/15 to 3/9/15 due to works being carried out at the property

- Holiday Contract (Felicity Gilbert) 13/05/13 to 05/09/13 citing 40 Danbury Street ref 4004 (£1040 pcm no council tax or utilities included)
- Eurolets Bank Statement 01/05/14 to 05/12/14 (Gilbert F Miss) showing regular monthly payments £1080
- Email 02/09/15 (Felicity Gilbert to Eurolets) extending tenancy 2 months and requesting 'roll-over' and 17/02/15 confirming move out date of 21/02/15
- ASTA (Anna Boonstra) 11/04/15 to 10/10/15 citing Flat 5 (£1220 plus £50 gas)
- Eurolets Bank Statement (Anna Boonstra) 28/05/15 to 07/07/2015 showing one payment of £1220 then this refunded and another payment of £533
- Email 22/04/2015 Eurolets to Anna Boonstra
- ASTA (Anna Faccini) 04/09/2015 to 03/02/16: Flat 5 (£1213 plus gas £38 = £1251)
- Eurolets Bank Statement (A Faccini) 14/07/15 to 22/05/17 showing regular monthly payments; £1251
- Eurolets Bank Statement (A Faccini) 23/03/17 to 28/02/18 citing Flat 8 showing regular monthly payments matching the amounts as above
- The evidence in the round supports the case 'on the balance of probability'

Summary of the Council's case

72. In addition to the common evidence and its case set out above, the gist of the Council's case is as follows:

- Only two of the ASTAs refer to Flat 5 and the reference on the 13/05/13 agreement does not match that in the SRI's email
- Emails are uncorroborated and do not contain specific information
- There are unexplained gaps between tenancies in March, July and August 2015
- No utility bills or proof of Council Tax payment
- In conclusion, the evidence is insufficiently precise and unambiguous

My Assessment

73. There are no documents submitted before the date of the first agreement relating to this flat. It was not an ASTA but was dated 13 May 2013 which is one month prior to the relevant date of 13 June 2013. It was in the name of Felicity Gilbert and was entitled 'Holiday Contract'. Although it did not state that it was Flat 5 the reference of 4004 accords with the RS e-mails. I am satisfied, therefore, that this holiday contract did indeed relate to Flat 5 at No 40 Danbury Street.

74. The contract was for a fixed period from 13 May 2013 to 5 September 2013. This was for a period of 114 days which is well in excess of the 90 day per calendar year allowance for which a Class C3 residential property can be used for 'Short-Term' lets. Thus, from 13 June 2013 (the relevant date) until 5 September 2013, Flat 5 could not have been lawfully in use as a Class C3 residential unit. If it had been in a Class C3 use then the holiday let had, in effect, resulted in an unlawful change of use of the property.

75. Irrespective, therefore, of whether or not Flat 5 was in continuous Class C3 residential use in accordance with the rest of the above evidence until the LDC application date, it could not have been in such a use for a continuous period from the relevant date of 13 June 2017 until the date of the LDC application which was 13 June 2017. The other evidence is not in itself conclusive and there are no records of utility bills or Council Tax payments. If Felicity Gilbert did occupy the flat for the necessary 4 year period it is unusual that a Statutory Declaration was not submitted as for several other flats within No 40 Danbury Street.

76. I acknowledge that the two later ASTAs in the names of Anna Boomstra and Andrea Faccini refer specifically to Flat 5. It is also the case that some of the bank payments (counter credits) in the name of Faccini also refer to Flat 5. Anna Boomstra's occupancy was quite short but the evidence is clear that Andrea Faccini occupied the flat from 4 September until at least the date of the LDC application. However, there are still significant gaps between February and September 2015.

77. The first of these from 26/2/15 to 10/4/15 is stated to be due to redecoration works following a leak. The second from 8/7/15 to 3/9/15 is also stated to be due to works being carried out at the flat. There are no submitted invoices for works which again I find to be unusual. The appellant company manages multiple properties in this part of Islington and one would expect any maintenance outgoings to be appropriately recorded.

Conclusion

78. Because of the initial holiday let period and the unexplained gaps in the other evidence I conclude that in this case the appellant company has failed to show precisely and unambiguously that Flat 5 was in continuous use as a Class C3 residential unit for the required 4 year period. I find that the Council's decision not to issue a LDC was well-founded. The appeal, therefore fails.

Appeal F: APP/V5570/X/18/3195573 Flat 6, Danbury Street, London N1 8JU

Introduction

79. The application is dated 12 June 2017. Thus it must be shown that the unit has been in continuous use as Class 3 residential since 12 June 2013. The Council Tax reference (from the e-mail referred to above) is 4005. The plan for Flat 6 indicates that it is on the ground floor of No 40 and that it has an area of 24.34m²

Summary of the Appellant's case

80. As well as the general evidence relating to all of the flats at No 40 (the former Courtyard) the appellant company relies upon the evidence set out below.

- Eurolets OH citing ASTA to show occupation by one tenant 1/3/10 to-date
- Statutory Declaration of Mr. Andrew James Hickinbottom 04/20/2017 confirming no breaks in tenancy and residential use since 01/03/2010
- Holiday Contract (Andrew Hickinbottom) 01/03/2010 to 26/03/2011 citing 40 Courtyard Danbury Street ref.4005 (£966.67)
- Eurolets Bank Statement (Andrew Hickinbottom) 01/06/2015 to 16/12/2016 showing regular monthly payments.
- Email 02/05/17 (Hickinbottom to Eurolets) confirming rent extension payment
- Email correspondence (Hickinbottom and Eurolets) 29/11/2014 re delivery to Flat 6
- Eurolets Bank Statement (Andrew Hickinbottom) 02/05/2017 to 15/02/2018 showing regular monthly payments for Flat 6
- In conclusion, the evidence in the round supports the case 'on the balance of probability'

Summary of the Council's case

81. In addition to its case on the common evidence as set out above the gist of the Council's case is as follows:

- The type and date of the contract does not appear to support the Planning Statement and the contract does not mention Flat 7 specifically
- Bank Statement for period 23/05/2015 and 23/05/2017 does not refer to Flat 6
- Bank Statement amounts do not tally with the monthly rent stated in the contract
- Emails do not indicate continuous occupancy for 4 years and not corroborated
- No utility bills have been submitted
- In conclusion the information is not considered to be sufficient

My Assessment

82. The Council appears to refer to Flat 7 when indicating that the Holiday Contract in the name of Andrew Hickinbottom dated 1/3/10 does not include the flat number. However, the contract does include reference 4005 which correlates with the RS numbering system for the flats at No 40 Danbury Street. I am satisfied, therefore, that the contract did relate to Flat 6.

83. Although there is no evidence submitted between the expiry date of the contract and June 2015, Mr Hickinbottom in his SD confirms that he entered into the tenancy agreement for Flat 6 on 1 March 2010 and that there have been no breaks within the tenancy. He confirms that Flat 6 was previously known as ref 4005 and this is indicated on the contract. He confirms that he has only used the flat for residential purposes and that during his tenancy there have been no alterations internally to the unit other than minor maintenance works.

84. An e-mail from Mr Hickinbottom to the appellant company dated 2 May 2017 indicates the breakdown of a rental payment made. This is made up of a daily rent amount for May and June 2017 plus 2 months payment for gas. The total amount was £2078.36 and this amount is shown on a bank statement showing 6 transactions between 2/5/17 and 15/2/18 and 15/3/17 and 13/3/18. In each case the following is recorded: Either, 'Bill Payment', 'Counter Credit' or 'Funds Transfer' plus the name 'HICKINBOTTOM AJ' plus 'FLAT6 RENT' and the letters either 'BBP', 'BGC', or 'FT'.

85. Although there are no bank records between the relevant date of 13 June 2013 (nor any other utility but gas or Council Tax records) it seems to me that Mr Hickinbottom has occupied Flat 6 as stated in the PS and his SD. Although in other cases there is evidence that tenants have lived in more than one unit at No 40 it seems unlikely that Mr Hickinbottom would have moved. I place great weight on his SD and the Council has no evidence of its own to counter the submitted evidence relating to the use of this flat. The Council did not take enforcement action in relation to the unauthorised use of this flat or any of the other units for that matter.

Conclusion

86. In conclusion it is my view that, on the balance of probability, Flat 6 has been in continuous use as a Class C3 residential unit from 13 June 2013 until 13 June 2017, the date of the LDC application. I find that the Council's decision not to issue a LDC was not well-founded. The appeal succeeds and a LDC will be issued.

Appeal G: APP/V5570/X/17/3187322 Flat 7, 40 Danbury Street, London N1 8JU

Introduction

87. The application is dated 9 June 2017. Thus it must be shown that the unit has been in continuous use as Class 3 residential since 9 June 2013. The Council tax

reference (from the e-mail referred to above) is 4006. Flat 7 is on the ground floor and is shown to have a total area of 24.43m².

Summary of the Appellant's case

88. As well as the general evidence relating to all of the flats at No 40 (the former Courtyard) the appellant company relies upon the evidence set out below.

- Eurolets OH, 20/07/13 to-date, citing tenancy agreement (rolled-over) to show occupation by one tenant
- Statutory Declaration of Ms Dawn Marley 04/12/17 confirming residential occupancy since 20/07/13
- ASTA 20/7/13 to 19/1/14 citing 40 Danbury Street ref 4006 (£1191.66 rent only)
- Eurolets Bank Statement 22/06/15 to 22/05/17 regular monthly payments £1,123.33
- Eurolets Bank Statement 20/03/17 to 20/02/18 shows regular monthly payments
- The evidence in the round supports the case 'on the balance of probability'

Summary of the Council's case

89. In addition to its case on the common evidence set out above the gist of the Council's case is as follows:

- The Tenancy Agreement does not reference Flat 7
- Even if the Statutory Declaration is true, it covers only 3 years and 11 months
- No utility bills or proof of Council tax payment
- In conclusion, the evidence is insufficiently precise and unambiguous

My Assessment

90. The single ASTA in the name of Dawn Marley is dated 20 July 2013 with an expiry date of 19 January 2014. Although it does not specifically stipulate that it related to Flat 7, the reference of 4006 correlates to the RS numbering system. I am satisfied, therefore, that the ASTA relates to Flat 7. The commencement date is over one month after the relevant start date of 9 June 2013. The ASTA has a 'roll-over' clause and there is a Statutory Declaration submitted by Dawn Marley. In the SD Dawn Marley indicates that she entered into the tenancy agreement to reside at 40 Danbury Street, Flat 7 on 20 July 2013. She confirms that the premises have only been used for residential purposes throughout the tenancy and that it had previously been known as unit 4006. The PS and the Council refer to a second ASTA which is dated from 20 January 2014 and stated in the PS to be until the present day. Although there is a gap in terms of submitted evidence between January 2014 and June 2015, there are other bank payments to directly link this tenant to the property.

91. Between 20/3/17 (prior to the LDC application) and 20/2/18 (after the date of the LDC application there is evidence of bank payments to Eurolets. These indicate that the payments were made by 'Standing Order' by 'D MARLEY' referenced 'MARLEY 7 STO'.

92. The Council indicates that even if the SD is true the required evidence does not cover the full 4 year period and refers to it being 3 years and 11 months. However, the Council has no evidence of its own to refute the solemnly declared declaration by Dawn Marley. Furthermore, the e-mail from Rebecca Nell (LPA), dated 10 March 2015, clearly indicates that she was happy to 'close the case' relating to the enforcement action.

93. The Council's reference to the period of 3 years and 11 months is not correct. The actual gap is from 9 June 2013 to 20 July 2013 a period of 40 days or just short of 6 weeks. Again although I find it unusual that the appellant company has not provided information for this period, a re-submission of the current evidence would clearly indicate that Dawn Marley has occupied Flat 7 continuously for a four year period.

Conclusion

94. Although the full 4 year period in this case has not been precisely shown, I consider that on the balance of probability Flat 7 has been in continuous use for the necessary 4 year period to which this appeal relates. I find the Council's decision not to issue a LDC to be not well-founded. The appeal succeeds and a LDC will be issued.

Appeal H: APP/V5570/X/18/3195574 Flat 8, 40 Danbury Street, London N1 8JU

Introduction

95. The application was dated 12 June 2017. It was not accepted as valid on that date and was still not valid according to the Council on 11 July 2017. However, in this case it would appear that the Council has used the 4 year period as commencing on the stated date of the application. I consider it appropriate, therefore to count the start of the 4 year period as being 12 June 2013. Thus it must be shown that the unit has been in continuous use as Class 3 residential from 12 June 2013 until 12 June 2017. The Council Tax reference (from the e-mail referred to above) is 4007. The Flat is on the ground floor and is stated to have a total area of 23.6m².

Summary of Appellant's case

96. As well as the general evidence relating to all of the flats at No 40 (the former Courtyard) the appellant company relies upon the evidence set out below. Additional evidence has been submitted since the initial application. For the reasons set out above I have taken all of the submissions into account. Thus the gist of the evidence is as follows:

- Eurolets OH 13/04/13 to date citing evidence to show occupation by six different tenants - ASTAs and bank statements show 'roll over'. Flat is recorded as unoccupied: 14/01/15 to 17/02/15; 19/02/16 to 10/03/16; 02/10/16 to 27/10/16; 17/01/2017 to 30/04/17. The last of these being for renovation.
- ASTA (Adams) 13/04/13 to 13/10/13 citing 26 Danbury Street ref. 4007 (£996.67)
- Emails (Adams and Euro lets) 8/01/15 - 12/01/15 re deposit
- Declaration 23/10/2014 (Suzanna Adams) confirming occupancy of Flat 8
- ASTA (Louise Glover) 18/02/15 to 17/07/15 citing Flat 8 (£1213.33 plus £40 gas)
- Eurolets bank statements (Louise Glover) showing one payment 23/02/20? and regular payments 09/06/15 to 12/01/16
- Email (Louise Glover) 18/01/2016 re tenancy deposit
- ASTA (Bruno Dimartino and Natalia Andressa Baffatto) 11/04/16 to 10/09/16 citing Flat 8 (£1213.33 and £50 gas)
- Eurolets Bank Statement (N Baffatto) 11/03/16 to 02/05/17 regular payments
- Email (Natalia Andressa Baffatto) 13/09/16 re notice to vacate. Tenant moved to Flat 12 on 03/10/16 (see Flat 12 evidence)
- ASTA (Sascha Coronado) 28/10/16 to 27/04/17 citing Flat 8 (£1213.33 and £50 g)

- Emails (Sascha Coronado and Euro lets) 11/12/16, 12/12/16 and 19/12/16
- Eurolets Bank Statements (S Coronado) 28/10/16 to 03/04/17 regular payments
- ASTA (Christina Herrmann and Janos Hidvegi) 01/04/2017 to 01/11/2017
- ASTA (Annalise McIntosh) 28/02/18 to 27/08/18
- Evidence drawn from a wide range of sources and should be looked at cumulatively

Summary of the Council's case

97. In addition to its case relating to the common evidence set out above the gist of the Council's case is as follows:

- The OH shows gaps, specifically February to October 2016
- Bank statements (Glover and Baffatto) do not identify specific flat
- Declaration (Suzanna Adams) is not sworn and relates to a single date
- No utility bills or payment of Council Tax information
- Evidence is insufficiently precise and unambiguous

My Assessment

98. Within the relevant 4 year period from 12 June 2013 until 12 June 2017 there are 5 relevant ASTAs. These are as set out above in the names of Suzanna Adams, Louise Glover, Bruno Dimortino and Natalie Andressa Baffatto, Sascha Coronado and Christina Herrman and Janos Hidveg. With the exception of the first ASTA all refer specifically to Flat 8 and/or reference 4007. The first ASTA refers to reference 4007 only. I am satisfied therefore that based on the RS numbering system all ASTAs relate to Flat 8 at 40 Danbury Street.

99. At the start of the relevant 4 year period Suzanna Adams had a tenancy for the flat. From other evidence in the form of various e-mails it would seem that she vacated the flat on 13 January 2015. There is a copy of a letter 'To whom it may concern' dated 23 October 2014 that this tenant had been occupying property reference 4007 since 13 April 2013. There was also e-mail correspondence between the tenant and the appellant company in January 2015 relating to the return of a deposit. The second ASTA is in the name of Louise Glover and commenced on 18/2/15. There is an e-mail from Louise Glover to Eurolets dated 17 February 2015 requesting the 'full prices for moving in tomorrow'. There was, therefore a gap of around 1 month between the first tenant moving out and the second one moving in to Flat 8 (ref 4007). Bank statement information indicating payments by Louise Glover are submitted. The first is shown as 23 February, without giving the year but then there is a series of payments between 9/6/15 and 12/01/16. On 18 January 2016 there is an e-mail from Eurolets to Louise Glover which referred to rent paid and deposit due back.

100. There is another gap between the end of the second tenancy and the beginning of the third. This is from 18 January 2016 until the start of the third tenancy (N Baffatto) on 11 March 2016, around about 50 days. There are records of regular payments by N Baffatto (NB) from 11/3/16 until 2/5/17 (dated 23 May 2017). However, there is evidence that N Baffatto vacated Flat 8 on 03/10/16 and subsequently moved into No 12. Thus some of the payments shown in her name cannot relate to Flat 8. The payments in the name of S Coronado (SC) start in October 2016 and these would be in line with the third ASTA which commenced on 28/10/16. A payment by S Coronado is shown for 3 April 2017. The final relevant ASTA commenced on 1 April 2017 with an expiry date of 1 November 2017 which is 5 months after the LDC application date.

Conclusion

101. Whilst accepting that there are some gaps between tenancies and that there are no utility of Council Tax bills shown to have been paid, I consider that on the balance of probability the evidence overall for this flat indicates that it had been in continuous use as a Class C3 residential unit between 12 June 2013 and 12 June 2017. The Council has not provided any of its own evidence to counter that of the appellant company and I conclude that its decision not to issue a LDC was not well-founded. The appeal therefore succeeds and a LDC will be issued.

Appeal I: APP/V5570/X/18/3195575 Flat 9, 40 Danbury Street, London N1 8JU

Introduction

102. The application is dated 12 June 2017. Thus it must be shown that the unit has been in continuous use as a Class C3 residential flat since 12 June 2013. The Council Tax reference (from the e-mail referred to above) is 4008.

Summary of Appellant's case

103. As well as the general evidence relating to all of the flats at No 40 (the former Courtyard) the appellant company relies upon the evidence set out below. Additional evidence to that submitted at the time of the application has been submitted. The Council has objected but I have set out above my reasons for taking this into account.

- Eurolets OH 02/11/13 to date citing evidence to show occupation by nine different tenants - tenancy agreements and bank statement to show 'rollover'. The flat is recorded as being unoccupied for periods : 02/06/14 to 27/07/14; 12/01/15 to 19/03/15; 30/06/16 to 05/08/16
- ASTA (Ali Cinali) 02/11/13 - 01/06/2014 citing 40 Danbury Street, ref.4008 (£966)
- Emails (Ali Cinali and Eurolets) 16/07/14 re moving out
- ASTA (Francesco Sabatino) 01/07/14 to 01/02/15 citing 40 Danbury Street, Courtyard ref.4008 (£1191 pcm rent plus £40 gas)
- Email (Francesco Sabatino) 28/11/14 re moving out
- ASTA (Balaza Hirth) 20/03/15 to 19/09/15 citing Flat 9 (£1083.33 plus £40 gas)
- Eurolets Bank Statement (Hirth) 24/06/15 to 22/09/15 regular payments £1123.33
- Email (Balaza Hirth) 21/09/15
- Declaration (Hirth and Gonda) 32/10/14 confirming occupancy
- Assured Short-hold Tenancy Agreement (Yoon Hye Eun) 21/09/15 to 20/03/16 citing Flat 9 (£1126 pcm rent plus £40 gas)
- Emails (Eun Yoon and Eurolets) 27/01/16 to 01/02/16 re moving out
- ASTA (Chau Muk Yan) 19/02/16 to 19/08/16 citing Flat 9 (terminated 29/06/16 - see email) (£1126.66 pcm rent)
- ASTA (Katerina Marianne Nina Recourt) 05/08/16 to 10/01/17 citing Flat 9 (£1212.33 pcm rent plus £40 gas)
- Eurolets Bank Statement (Recourt) 31/08/16 to 14/12/16 showing regular payments £1253.33
- Email (Nina Recourt) 24/11/2016 re moving out
- ASTA (Carolina Nicov) 10/01/17 to 09/07/17 citing Flat 9 (£ 1126 plus £40 gas)
- ASTA (Iana Anatolevna Kardanova and Paul Caisley) 01/06/17 to 01/09/17
- Eurolets Bank Statement (Caisley P) 30/05/17 to 01/08/18 regular payments

- ASTA (Linda Roxburgh) 01/09/17 - 28/02/18 citing Flat 9 (£1105 plus £40 gas)
- Eurolets Bank Statement (Roxburgh L) 30/08/17 to 23/02/18 regular payments
- In conclusion, looking at the evidence in the round rather than at individual pieces supports the case on the balance of probability

Summary of the Council's case

104. In addition to its case on the common evidence set out above the gist of the Council's case is as follows:

- OH is not an official document so carries no weight
- The Bank Transactions do not cover a 4 year period
- Emails do not indicate continuous 4 year occupancy
- Declaration (Belzas Hirth and Henrietta Gonda) 23/10/14 is not a sworn document
- 2 month period in 2014 claimed to be 'rolled-over' tenancy, but emails do not give precise dates and no bank statements for this period
- No utility bills and Council Tax information not updated
- Evidence is insufficiently precise and unambiguous

My Assessment and Conclusion

105. There are 9 ASTAs/Agreements relating to this flat, the first seven of which are within the relevant 4 year period between 12 June 2013 and 12 June 2017. These are all set out above together with details of bank payments and various e-mails supporting the appellant's case. Despite some gaps between tenancies, lack of utility bills and Council Tax information, on the face of the considerable evidence it seems to me that Flat 9 was, on the balance of probability, in continuous residential occupation from the start of the first ASTA on 2 November 2013. However, the evidence in relation to the total 4 year period is not conclusive in my view and the first issue relates to the period between 12 June 2013 and 2 November 2013.

106. This is a period of some 5 months. There is no indication in the LDC application evidence relating to how Flat 9 was occupied during this period. If there had been tenants before 12 June 2013 it is again surprising that the appellant company has not provided information to justify the full required four year tenancy/occupation record. Even if there is precise and unambiguous evidence between November 2013 and February 2018, this does not satisfy the requirement to show continuous residential use for the 4 year period which must start 4 years prior to the date of the LDC application.

107. An unexplained 5 month period before the first ASTA means that the appellant has not discharged the necessary duty to show that Flat 9 has been in continuous residential Class C3 use since 12 June 2013. There are also other gaps and the Occupancy History sets these out. I accept that the small gaps relating to change of tenancy (28/7/14 to 31/7/14; 20/9/15; 2/2/16 to 18/2/16 and 26/5 to 31/5) are negligible. There is one two month period (12/1/15 to 19/3/15) which is stated to be due to re-decoration works. However, as indicated above for previous flats, one would normally expect some sort of invoice records. Another period between 30/6/16 to 5/8/16 is stated to be for re-decoration and finding a new tenant but again no corroborative evidence is provided.

Conclusion

108. Despite the considerable evidence submitted, I do not consider that the appellant company has precisely and unambiguously shown that Flat 9 was in continuous residential Class C3 use between the dates of 12 June 2013 and 12 June

2017. I consider that the Council's decision not to issue a LDC in this instance was sound. It follows that the appeal must fail and a LDC will not be issued.

Appeal J: APP/V5570/X/18/3195578
Flat 10, 40 Danbury Street, London N1 8JU

Introduction

109. The application is dated 12 June 2017. Thus it must be shown that the unit has been in continuous use in Class 3 residential since 12 June 2013. The Council tax reference (from the e-mail referred to above) is 4009. Flat 10 is on the Ground Floor and is shown to have an area of 23.12m².

Summary of the appellant's case

110. As well as the general evidence relating to all of the flats at No 40 (the former Courtyard) the appellant company relies upon the evidence set out below.

- OH 17/03/12 to date showing occupancy by four different tenants and an unoccupied period 19/07/17 to 24/11/17 - for works to be carried out
- ASTA (Kevin Shannon) 17/03/12 to 17/06/12 citing 40 Courtyard Danbury Street ref. 4009 (£996.67 pcm rent only)
- Email (Kevin Shannon) re moving out at end of October 2015
- ASTA (Adam Brown) 31/10/15 to 30/04/16 citing Flat 10 (£1126.66 plus £50 gas)
- Emails (Adam Brown) 29/11/15 and 01/12/15 re moving out date 13/12/?
- ASTA (Lartitia Desjardins and Maxime Didier Rottee) 14/01/16 to 13/06/2016 citing Flat 10 (£1126.66 pcm rent plus £50 gas)
- Email (Laetitia Desjardins) 23/05/16 confirming leaving date of 11/06/2016
- ASTA (Szuzanna Marton) 15/07/16 to 30/10/16 cites 40 Danbury Street ref.4010 (Ref Flat 11) But condition of room cites Flat 10 (£1213.33 pcm rent plus £50 gas)
- Emails (Szuzanna Marton and Eurolets) 05/10/16 re moving out
- ASTA (Eden Frimpong) 13/12/2016 to 12/06/17 citing Flat 10
- ASTA (Florina Codrea) 25/11/2017 to 24/05/18 citing Flat 10
- In conclusion, looking at the evidence in the round rather than at individual pieces supports the case on the balance of probability

Summary of the Council's case

111. In addition to its case above relating to the common evidence the gist of the Council's case is as follows:

- Lack of evidence re renewal of Shannon's contract, only one uncorroborated email
- Confusing information about Adam Brown's tenancy
- Document dates suggest an overlap between tenancies (Adam Brown and Laetitia Desjardins/Maxime Didier Rottee) making the authenticity doubtful
- Szuzanna Marton's tenancy, no extra supporting evidence and cites second floor studio, 26 Danbury Street as well as Flat 10. Doubtful in terms of accuracy
- There is no evidence to show a rolled over contract after 14/05/2017
- There are unexplained gaps : June 2014 to October 2015, April to October 2015, June to August 2016, October to December 2016 and June 2017 to the present
- No utility or council tax bills
- In conclusion, evidence is insufficiently precise and unambiguous

My Assessment

112. The OH shows that the flat was occupied from 17/03/12 - to date and shows occupancy by four different tenants. The first occupant is shown as being Kevin Shannon from 17/03/2012 to 17/06/2012. The ASTA refers to 40 Courtyard Danbury Street ref 4009 (£996.67 rent only). Although Flat 10 is not cited the reference of 4009 accords with the RS numbering system. I am satisfied therefore that Mr Shannon occupied Flat 10 for the above period. However, after 17/6/12, there is a significant gap in evidence from June 2012 until the start of the second ASTA in the name of Adam Brown which commenced on 31/10/15.

113. Thus, from the relevant date of 12 June 2013 there is a gap in evidence (other than one e-mail from Mr Shannon) until the start of the second ASTA in the name of Adam Brown which commenced in October 2015. This tenancy did refer to Flat 10 but I agree with the Council that some of the evidence relating to Mr Brown's tenancy was confusing. The Council also indicates that the various dates suggest an overlap between his tenancy and that of the next tenant. However I accept that this tenancy lasted until 13/12/16. I have no reason to question the subsequent tenancy of Lartitia Desjardins and Maxime Didier Rottee) 14/01/16 to 13/06/16 citing Flat 10 (£1126.66 rent plus £50 gas). Nor do I question the leaving date of 11/6/16.

114. There is some confusion relating to the ASTA for the next tenant, Szuzanna Marton. The reference of 4010 is the RS e-mail reference for Flat 11. However the 'condition of room' report does refer to Flat 10. An e-mail indicates that this tenant was moving out of the flat and the next ASTA was in the name of Eden Frimpong and dated 13/12/2016 to 12/06/2017. This clearly referred to Flat 10. There is no need to consider the other ASTAs since 12 June 2017 was the date of the LDC application and the relevant 4 year period relates to the 4 years prior to this date.

115. Between October 2015 and June 2017, I do not question the evidence and that for that period Flat 10 was in continuous use as a Class C3 residential unit. However there is no indication in the LDC application evidence relating to how Flat 10 was occupied during the period from June 2013 until October 2015. If there had been tenants during this period it is again surprising that the appellant company has not provided information to justify the full required four year tenancy/occupation record. Even if there is precise evidence between October 2015 and June 2017, this does not satisfy the requirement to show continuous residential use for the 4 year period which must start 4 years prior to the date of the LDC application.

116. The largely unexplained period from June 2013 until October 2015 means that the appellant has not discharged the necessary duty to show that Flat 10 has been in continuous residential Class C3 use since 12 June 2013. There are also other gaps and the Council refers to these. They are June 2014 to October 2015, April to October 2015, June to August 2016, October to December 2016 and June 2017 to the present. In addition there are no utility or council tax bills.

Conclusion

117. Despite the evidence submitted, I do not consider that the appellant company has precisely and unambiguously shown that Flat 10 was in continuous residential Class C3 use between the dates of 12 June 2013 and 12 June 2017. I consider that the Council's decision not to issue a LDC in this instance was sound. It follows that the appeal must fail and a LDC will not be issued.

Appeal K: APP/V5570/X/18/3195580
Flat 11, 40 Danbury Street, London N1 8JU

Introduction

118. The application is dated 12 June 2017. Thus it must be shown that the unit has been in continuous use in Class 3 residential since 12 June 2013. The Council tax reference (from the e-mail referred to above) is 4010. Flat 11 is on the ground floor and is stated to have a total area of 27.68m².

Summary of Appellant's case

119. As well as the general evidence relating to all of the flats at No 40 (the former Courtyard) the appellant company relies upon the evidence set out below.

- Eurolets OH 20/01/12 to date, citing Email correspondence; tenancy agreements and bank information to show occupancy by five different tenants. Unoccupied periods are shown as: 25/05/14 to 02/06/14; 11/01/15 to 08/02/15; 10/03/15 to 24/04/15 and 16/07/15 to 07/08/15
- 30/04/14 Eurolets letter stating that Oscar Hernandez was resident from 20/01/12 to 24/05/14
- Deposit (Katerina Orlovska) shows tenancy start date as 27/05/15
- Deposit form (Mark Loh Zhi Xiong) shows tenancy start date as 08/08/15
- ASTA (Eleonora Tatti, but signed by V. Piccow) 03/06/14 and emails (Tatti); Holiday Contract (Rahul Singh) 09/02/15 for 29 days;
- ASTA (Katerina Orlovska) Flat 11 altered to Flat 10;
- ASTA (Mark Loh Si Xiong) 08/07/15 and deposit information covering 6 months
- In conclusion, the information looked at in the round, supports the case

Summary of the Council's case

120. The gist of the Council's case is as follows:

- No Tenancy Agreement for Oscar Hernandez
- Two of the tenancies indicate short term letting - R Singh, 29 days and K Orlovska apparently for 81 days i.e. not in a residential capacity over this 6 month period
- The letter of 30/04/15 is not formally prepared and is uncorroborated
- The evidence of occupation does not match the stated occupancy history
- The evidence is not clear and discrepancies are unexplained
- No utility or council tax bills
- In conclusion, evidence is insufficiently precise and unambiguous

My Assessment and conclusion

121. The submitted ASTAs do not commence until June 2014 which is one year after the relevant start date of 12 June 2013. Although the PS refers to a Contract Agreement in the name of Oscar Hernandez from 20 January 2012 to 24 April 2014, none is submitted. In relation to this tenant there is a letter ('To whom it may concern') submitted from EuroLets UK Ltd, dated 30 April 2012 to indicate that the tenant had been residing at 40 Danbury Street since 20 January 2012; that his rent was £910 per month; that he had not breached his contract and that the contract would terminate on 24 May 2014.

122. The first ASTA then commenced on 3 June 2014 in the name of Eleonora Tatti, although it was signed by a V Piccow. The evidence indicates that this was 'rolled-over' until 10 January 2015 and that the Flat was then unoccupied until 9 February,

almost one month later. The next agreement started on 9 February 2015 in the name of Rahul Singh but this was only for a very short period until 21 February 2015. This was 'rolled-over' and Mr Singh vacated the property on 9 March 2015 having stayed for just 29 days. There was another short break in occupancy. The next agreement was in the name of Katerina Orlovska and her tenancy commenced on 25 April 2015 and ended on 15 July 2015, a period of around 81 days. Finally there is an agreement in the name of Mark Loh Zhi Xiong dated 8 August 2015 which was 'rolled over' until after the date of the LDC application. Various e-mails and bank details are submitted to support the evidence relating to tenancies.

123. I accept that from June 2014 until after the date of the LDC application Flat 11 was occupied by the various tenants as referred to above. I also accept that the agreements were 'rolled-over' where stated. However I have various concerns with regard to whether or not the flat was in continuous Class C3 residential use from 12 June 2013 until 12 June 2017.

124. My first concern relates to Mr Hernandez's occupancy. The appellant company simply relies on the letter of 30 April 2014 which appears to be giving a reference ('To whom it may concern') for Mr Hernandez. The letter only states that he lived at No 40 Danbury Street for the period quoted. It does not specifically refer to Flat 11. In addition it seems odd that the appellant company is not able to provide an ASTA for this one year period between June 2013 and May 2014.

125. With regard to the Singh/Orlova tenancies, as indicated by the Council, these were short-term lettings of less than 90 days. However the total number of 'short-term' let days (110 days) exceeds the 90 days in any calendar year during which a Class C3 residential use can be occupied without a change in use occurring. I conclude, therefore that between 9 February 2015 and 15 July 2015 Flat 11 could not have been in use as a Class C3 residential unit.

Conclusion

126. For the above reasons, I do not consider that the appellant company has shown, on the balance of probability that Flat 11 has been in continuous use as a Class C3 residential unit for the necessary 4 year period between 12 June 2013 and 12 June 2017. It follows that I consider the Council's decision not to issue a LDC was sound in this instance and the appeal must fail. A LDC will not be issued.

Appeal L: APP/V5570/X/18/3195584 Flat 12, 40 Danbury Street, London N1 8JU

Introduction

127. The application is dated 12 June 2017. Thus it must be shown that the unit has been in continuous use in Class 3 residential since 12 June 2013. The Council tax reference (from the e-mail referred to above) is 4011. This is a one bedroom flat on the ground floor and is stated to have a total area of 34.37m².

Summary of Appellant's case

128. As well as the general evidence relating to all of the flats at No 40 (the former Courtyard) the appellant company relies upon the evidence set out below.

- Eurolets OH 01/06/13 to date citing tenancy agreements, emails and bank statement to show occupancy by three tenants. Unoccupied periods shown as: 11 to 15/05/15; 25/07 to 02/10/16 for 'works to be carried out'

- The PS notes worker (Arkadiusz Malinowski) carrying out contract and given free accommodation in Flat 12 01/06/13 to 10/05/14 and cites bank information
- Eurolets Bank Statements (Arkadiusz Malinowski) 21/03/14; 13/06/14; 31/10/14 showing payments for differing amounts - amounts dated after tenant moved in
- ASTA (Loryn Eve Jacobsen) 16/05/14 to 16/11/14 citing 40 Danbury Street ref. 4011 (£1300 rent plus £50 gas)
- Emails 01/07/16 (Eve Jacobsen and Eurolets) re damp and moving 24/07/16
- ASTA (Baffato) 03/10/16 to 03/04/17 citing Flat 12 (£1256.66 plus £50 gas/elec)
- Deposit payment information 22/05/14 - tenant/flat not identified
- Eurolets Bank Statement (N Baffato) 03/10/16 to 02/05/17 showing regular payments of £1305
- In conclusion the information looked at in the round, supports the case

Summary of the Council's case

129. In addition to its case relating to the common evidence set out above the gist of the Council's case is as follows:

- OH is not an official document and ASTAs do not cover the period as stated
- Bank Statements for N Buffato ambiguous as also submitted for Flat 12. They do not cover a 4 year period.
- Records of transactions in 2014 do not confirm continuous occupancy.
- Emails do not indicate continuous residential occupancy
- No utility bills submitted
- In conclusion, evidence is insufficiently precise and unambiguous

My Assessment and conclusion

130. In the OH it is stated that Flat 12 was occupied by a worker (Arkadiusz Malinowski) who was carrying out a contract for the appellant company and had been given free accommodation in Flat 12 from 01/06/2013 to 10/05 2014. There is some bank information in support showing payments made to Mr Malinowska. However, there are no other records of his occupation and no references to Flat 11 (ref 4010) being occupied by him between 12 June 2013 and 10/5/14.

131. The first ASTA is dated 16 May 2014 and is in the name of Loryn Eve Jacobsen. It refers to No 40 Danbury Street, 40 Courtyard and reference 4011. Following on from the other reference numbers related to Flat numbers, I am satisfied, therefore that this ASTA relates to Flat 12. The tenancy is stated to have been 'rolled-over' until 24 July 2016 and it was then unoccupied for a period of just over 3 months. It is stated that this was due to 'Works carried out'.

132. The second ASTA was in the name of Natalia Baffatto. She had previously occupied Flat 8 which she vacated in September/October 2016 (see Appeal H above). This explains what the Council refers to as the 'ambiguous' bank statements in her name. The ASTA was rolled over and there is further bank evidence and e-mails to support the case that Flat 12 was occupied from 12 from October 2016 until at least 12 June 2017, the date of the LDC application.

133. However, again I have concerns about two significant periods. The first relates to 1 June 2013 to 10 May 2014. This is when Mr Malinowska is stated to have occupied the unit. I find it unusual that for a period of over 11 months, the appellant company has not kept any records for this flat. There are no utility bills, no references to Council Tax payments and some of the other evidence is ambiguous.

134. There is no Statutory Declaration from either Mr Malinowska or the appellant company. Such a SD could have corroborated the company's case. In the absence of any precise evidence during this period it could well be that the unit was being used, like others, for short-term lets. Whether this was the case or not there is insufficient precise and unambiguous evidence to convince me that Flat 12 was occupied as a Class C3 residential unit during this period.

135. The second significant period is the 3 month period between July and October 2016 when works are stated to have been carried out. As for other situations for other flats at No 40 there is no evidence of any works being carried out. As indicated before one would expect an established letting company to have reasonable records of outgoings for any alterations, maintenance or renovations works. Apart from basic management accounting such sums of money/expenses would normally be offset against Tax liabilities.

Conclusion

136. Overall, whilst accepting that Flat 12 was occupied by the two tenants for the periods stated, the significant gaps in evidence for the relevant 4 year period, lead me to the conclusion that the appellant company has not shown, on the balance of probability, that Flat 12 had been in continuous Class C3 residential occupation between the dates of 12 June 2013 and 12 June 2017. I find, therefore, that the Council's decision not to issue a LDC was well-founded and the appeal fails. A LDC will not be issued for Flat 12.

Appeal M: APP/V5570/X/18/3195588 Flat 13, 40 Danbury Street, London N1 8JU

Introduction

137. The application is dated 12 June 2017. Thus it must be shown that the unit has been in continuous use in Class 3 residential since 12 June 2013. The Council tax reference (from the e-mail referred to above) is 4012. Flat 13 is on the ground floor and the total area is given as 25.64m².

Summary of the Appellant's case

138. As well as the general evidence relating to all of the flats at No 40 (the former Courtyard) the appellant company relies upon the evidence set out below. Flat 13 is on the ground floor and is stated to have an area of 25.64m².

- Eurolets OH 21/05/13 to date citing ASTAs, emails and bank statements to show occupancy by five different tenants. Tenancy 01/10/15 to 31/03/16 noted as 'Direction and Design T/A Tangerine'. Unoccupied periods: 19/05/14 to 23/06/14; 27 to 31/09/15; 01 to 05/04/16; 05/05/16 to 23/06/2016
- Emails (Colin McKee and Eurolets) 11 and 19/12/13 re moving to smaller flat and stating 6 months occupancy of flat ref 4011 (Flat 12)
- PS notes cash payments made
- ASTA Stroud) 23/06/14 to 23/12/14 citing 26 Danbury Street ref. 4012 (£1126)
- Eurolets Bank Statement (Stroud) 29/06/15 to 28/09/15 showing regular payments
- Email (Stroud and Eurolets) 26/09/15 re moving out
- ASTA, Direction & Design T/A Tangerine) 01/10/15 to 02/04/16 citing Flat 13 (£1213.33 pcm rent plus £40 gas)
- Emails (Tangerine and Eurolets) 15/09/15; 16 and 18/02/16 noting Yuichi Ishihara as occupant for 6 months, then guest from Japan (Tatsu) moving out 31/03/16

- Holiday Contract (Fabio Iacona) 06/04/16 to 04/05/16, Flat 13 (£1213.33 pcm)
- Emails (Fabio Iacona and Eurolets) 20/04/2016; 04 and 05/05/2016 rent in arrears
- ASTA (George Henry Scott) 24/06/2016 citing Flat 13 (£1213.33 pcm)
- Eurolets Bank Statements (Scott GH) 13/06/16 to 25/05/17 and 24/03/17 to 26/02/18 showing regular payments of £1213.33
- In conclusion, the information looked at in the round, supports the case

Summary of Council's case

139. In addition to its case on the common evidence referred to above the gist of the Council's case is as follows:

- OH is not an official document and is not backed up by the tenancy agreements
- E-mails do not indicate continuous occupation
- No utility or council tax bills
- In conclusion, evidence is insufficiently precise and unambiguous

My Assessment

140. There are 5 tenancies referred to in support of this case in the OH. The first is in the name of Colin McKee from 21/5/13 to 20/11/14. The ASTA has a reference of 4012 which is correct for Flat 13. On 11 December 2013 an e-mail from Mr McKee indicated that he had occupied Flat 4011 for over 6 months and that his contract ended on 18 May (presumably 2014). He indicated that he wanted a smaller unit and did not need the amount of space in his current unit.

141. However, 4011 is the reference number for Flat 12. This is one of the few one bedroom flats which is indeed much larger than any of the studio flats. Other e-mails between Mr McKee and the appellant company referred to rent being paid in cash on 4 December 2013 but there is no reference to a flat number. Thus I find the evidence relating to Mr McKee's occupancy of Flat 13 to be ambiguous. If he had moved to Flat 13 sometime in December 2013 (to a smaller unit) it would appear that from 21/5/13 he had been living in the larger unit, reference 4011, Flat 12.

142. The ASTA in the name of Verity Stroud gives the correct reference for Flat 13, 4012 and this tenant clearly gave notice to vacate on 26/9/15. Various bank references appear to corroborate this. The next ASTA was in the company name of Direction & Design T/A Tangerine (DDT) and was dated 1/10/15 and referred to Flat 13. There are e-mails between Tangerine and Eurolets dated 15/09/15; 16 and 18/02/16. These noted Yuichi Ishihara as being in occupation for 6 months, and a 'guest from Japan' (Tatsu) moving out 31/03/16.

143. There then followed a 'Holiday Let' contract' in the name of Fabio Iacona for a period of around 1 month and the next ASTA in the name of George Henry Scott commenced on 24/6/16 clearly referring to Flat 13. Although not a complete set, bank statements between that date and 26/2/18 indicate that Scott GH made regular payments although these do not refer to any specific flat.

144. From the evidence it seems to me that the tenancy of Verity Stroud was a normal one and that is also the case for George Henry Scott's occupation of Flat 13. However, from the evidence it would appear that the company DDT was using the flat to accommodate individuals on a short-term basis. There is a reference to Yuichi Ishihara occupying the flat for 6 months and another occupant (guest from Japan). There are no utility bills or Council Tax records of payment. Furthermore, after DDT vacated the flat the next occupancy was as a 'Holiday Contract'. This period of

occupancy, in my view was not a straightforward residential use and significantly 'broke' the required 4 year period.

Conclusion

145. Overall, therefore, I consider that there is insufficient evidence to indicate that Flat 13 had been in a Class C3 residential use for the required period. The other anomalies relating to Mr McKnee tenancies of two units reinforces my view that in this case the appellant company has failed, on the balance of probability to provide sufficient and unambiguous evidence to prove their case. I consider that the Council's decision not to issue a LDC for this flat was sound and the appeal fails. A LDC will not be issued.

Appeal N: APP/V5570/X/18/3195591 Flat 14, 40 Danbury Street, London N1 8JU

Introduction

146. The application is dated 12 June 2017. Thus it must be shown that the unit has been in continuous use in Class 3 residential since 12 June 2013. The Council tax reference (from the e-mail referred to above) is 4013. Flat 14 is a studio on the ground floor and is shown to have a total area of 24.06m².

Summary of the appellant's case

147. As well as the general evidence relating to all of the flats at No 40 (the former Courtyard) the appellant company relies upon the evidence set out below.

- Eurolets OH 10/09/12 to date citing tenancy agreements, emails and bank statement to show occupancy by four different tenants. Unoccupied periods: 03 to 08/06/14; 05 to 15/12/16; 01/08/17 to 24/09/17
- ASTA (Jeffrey Fair) 10/09/12 to 09/03/13 citing 40 Danbury Street ref. 4013 (£906)
- Emails 02/06/14 (Jeffrey Fair and Euro lets) re moving out and deposit repayment
- ASTA (Anastasis Bugaenko) 09/06/14 to 09/12/14 citing 40 Courtyard, Danbury Street; 04/06/15 to 03/12/15 citing Flat 14; 04/12/15 to 03/06/16 citing Flat 14; 05/06/2016 to 04/12/2016 citing Flat 14 (£1083.22 pcm rent plus £40 gas/elec)
- E-mails (Bugaenko and Eurolets) 23 and 24/11/16 re moving out 04/12/16
- ASTA (Benjamin Jean Vincent Bartholome) 16/12/16 to 15/06/17 citing Flat 14 (£1239.32 pcm rent plus £40 gas/elec)
- ASTA (Hia Zintchenko) 25/09/2017 to 24/03/18 citing Flat 14 (£1191.66 pcm rent plus £40 gas/elec)
- In conclusion, the information, looked at in the round, supports the case

Summary of the Council's case

148. In addition to its case on the common evidence referred to above the gist of the Council's case is as follows:

- Tenancy history (OH) is not an official document
- E-mails do not indicate continuous occupancy
- The tenancy agreements only show continuous residential occupancy June 2014 to June 2017 (a 3 year period)
- No conclusive evidence that Mr Jeffrey Fair's contract extended from March 2013
- No statutory declaration
- No utility bills or council tax bills submitted

- In conclusion, evidence not drawn from a wide range of sources that are both accurate and robust in terms of authentication.

My Assessment

149. The Council accepts that the tenancy agreements show continuous residential occupancy June 2014 to June 2017 (a 3 year period). Having seen the various ASTAs and other supporting documents for this period I agree with the Council and the appellant company that, on the balance of probability, Flat 14 was in Class C3 residential use from the relevant date of 12 June 2014 until the date of the LDC application. The Council questions Mr Jeffrey Fair's tenancy and in particular that it was rolled over from March 2013.

150. The question in this case, therefore, is whether or not the flat was similarly occupied By Mr Fair between the relevant date of 12 June 2013 and 2 June 2014. The OH indicates that Mr Jeffrey Fair entered into a tenancy agreement for Flat 14 on 10 September 2012. As indicated by the Council this expired on 9 March 2013 but the ASTA, like a lot of the others is indicated to have been 'rolled-over' until 2 June 2014.

151. The ASTA in Mr Fair's name is dated 10 September 2012 and refers to 40 Danbury Street reference 4013. This reference accords with the RS numbering and referencing system for the properties within the Courtyard at No 40 Danbury Street. I accept, therefore that this ASTA relates to Flat 14. There is an e-mail from Mr Fair to the appellant company dated 2 June 2014 indicating that he had left relevant key cards at the company office when he vacated the property. There is another e-mail dated 28/4/14 referring to the need to provide one month's notice.

152. Although I agree with the Council that there is no definitive evidence that Mr Fair's tenancy was rolled over and that the e-mails cannot be conclusive, it is clear from many of the other appeals relating to other flats that 'roll-overs' were common. In this case, taking all of the submissions into account, I consider that on the balance of probability Mr Fairs did indeed occupy Flat 14 from the dates as shown in the OH. The Council has not provided any evidence of its own to counter the appellant company's and the agent's submissions that the opposite is the case.

Conclusion

153. In conclusion, therefore, it is my view that on the balance of probability the appellant company has shown that Flat 14 had been in continuous occupation as a Class C3 residential unit for the necessary 4 year period commencing on 12 June 2013 and ending on the date of the LDC application for this flat. It follows that in this instance I do not consider that the Council's decision was well-founded. The appeal, therefore, succeeds and a LDC is issued.

Appeal O: APP/V5570/X/17/3187296 Flat 15, 40 Danbury Street, London N1 8JU

Introduction

154. The application is dated 9 June 2017. Thus it must be shown that the unit has been in continuous use in Class 3 residential since 9 June 2013. The Council tax reference (from the e-mail referred to above) is 4014. Flat 15 is a studio flat on the ground floor and is stated to have an overall area of 30.19m²

Summary of Appellant's case

155. As well as the general evidence relating to all of the flats at No 40 (the former Courtyard) the appellant company relies upon the evidence set out below.

- Eurolets OH 13/05/13 to date citing agreements, emails and receipts to show occupancy by four different tenants. Unoccupied periods: 11 to 26/01/16 and 01/04/17 to 28/05/17
- ASTA (Dr Chukwudi Kweku Clarke) 13/05/13 to 12/11/14 citing 40 Danbury Street ref. 4014 (£ 996.67 pcm rent)
- Emails (Clarke and Eurolets) 10 & 11/12/15, re notice to leave on 10/01/16
- ASTA (Radu Potop) citing Flat 15 (1213.33 rent plus £40 gas) 27/01/16 to 26/07/2016. PS notes leaving date as 31/03/16 and noted as email by Council.
- ASTA (Sarah Amy Edwards) 31/04/16 to 30/09/16 citing Flat 15 (£1213.33 pcm rent plus £40 gas)
- E-mails (Sarah Edwards and Euro lets) 01/03/17 re moving out on 31/03/17
- ASTA (Angun Dopmney) 29/05/17 to 28/11/17, Flat 15 (£1215 rent plus £40 gas)
- Deposit record - paid 27/05/2017
- In conclusion, the information, looked at in the round, supports the case

Summary of the Council's case

156. In addition to its case relating to the common evidence the gist of the Council's case is as follows:

- Only 2 of the agreements refer to Flat 15 and the reference number on the 2013 contract does not match the Senior Revenues Inspector's data
- No bank statement or utility bills
- There are gap between tenancies
- No council tax bills submitted
- Evidence is insufficiently precise and unambiguous

My Assessment

157. The first ASTA is in the name of Dr Chukwudi Kweku Clarke (C K Clarke), dated from 13/05/13 to 12/11/14 and referring to '40 Danbury Street ref. 4014' (£ 996.67 pcm rent). Reference 4014 is correct in relation to the RS numbering/referencing system for the studios/flats at No 40 and I am satisfied that the ASTA relates to the appeal Flat 15. There is e-mail evidence of this tenant vacating No 15 on 10/1/16 and, despite the significant period until the start of the next ASTA (27/1/16), I consider that, on the basis of all of the submissions, this is sufficient to indicate that the original tenancy agreement was 'rolled-over'. The Council provides no evidence of its own to counter this position.

158. Next, there was what I regard to be a reasonable period between tenancies until 27/1/16, when Radu Potop entered into an ASTA which specifically referred to Flat 15. This tenant gave notice to vacate the property earlier than the expiry date of 26 July 2016 and there is e-mail correspondence relating to this early cessation of the agreement. It would appear that this tenant vacated Flat 15 prior to the next tenant, Sarah Edwards who moved in on 31 March 2016.

159. There is a second agreement in her name from 31/9/16 until 31 March 2017. Following the end of this tenancy, confirmed by e-mail notice dated 1 March 2017 and a further e-mail to indicate notice to leave on 31 March 2017, there was a gap of around 2 months which is stated to be for 'works carried out and finding tenancy

replacement'. From 29/5/17, until well after the date of the LDC application (stated as 'to present day'), a further ASTA in the name of Angun Domney is submitted.

160. There are deposit details submitted of this latest tenant's payments which clearly related to Flat 15. The ASTA had referred to Flat 15 and there was the usual 'roll-over' clause.

161. Although there is a significant gap between November 2013 and January 2016 I have already concluded above that it is most likely that CK Clarke occupied Flat 15 up until January 2016. The evidence between this date and the date of the LDC application convinces me that Flat 15 was in continuous Class C3 residential use between January 2016 and October 2018.

Conclusion

162. In conclusion I find that, on the balance of probability, Flat 15 was in continuous Class C3 residential use from 9 June 2013 until 9 June 2017. It follows that I find the Council's decision not to issue a LDC to be not well-founded. The appeal, therefore, succeeds and a LDC will be issued.

Appeal P: APP/V5570/X/17/3186387 Flat 16, 40 Danbury Street, London N1 8JU

Introduction

163. The application is dated 9 June 2017. Thus it must be shown that the unit has been in continuous use in Class 3 residential since 9 June 2013. The Council tax reference (from the e-mail referred to above) is 4015. Flat 16 is a one bedroom flat on the ground floor and is indicated to have an area of 35.30m².

Summary of the Appellant's case

164. As well as the general evidence relating to all of the flats at No 40 (the former Courtyard) the appellant company relies upon the evidence set out below.

- Eurolets OH 09/04/13 to date citing agreements, emails, and bank statements to show occupation by six tenants. Unoccupied periods: 09 to 13/07/14; 02/09/14 to 13/01/15; 20 to 26/03/15; 28 to 24/04/15; 24 to 25/06/15
- ASTA (Sebastien) 09/04/13 to 08/10/13, 26 Danbury Street ref.4015 (£1300 rent)
- Emails (Sebastien and Eurolets) 15 and 16/02/14 re occupancy of 4015; and 03/07/14 re moving out
- ASTA (Argela Beselo) 14/07/14 to 14/01/15 citing 40 Danbury, Courtyard ref.4015 (£1300 pcm rent plus £40 gas)
- Letter 14/07/2014 (Arelo Beselo) re condition of room, citing suite 4015
- ASTA (Vilmos Palko) 14/01/2015 to 13/07/2015 citing Flat 16 (£1386.66 pcm rent plus £50 gas)
- Emails (Vimos Palko and Euro lets) 20 and 21/02/2015 removing out 19/03
- Holiday Contract (Stephen O'Farrell) 27/03/15 to 17/04/15 citing Flat 16 (£1084 three weeks rent including gas)
- ASTA (Francesca Repetto Rojas) 25/04/15 to 24/10/2015 citing Flat 16 (£1525 pcm rent and £50 gas)
- Letter (Francesco Rapetta Rochas) re vacating flat 23/06/2015
- Email (Francesca Repetto and Eurolets) re account details
- ASTA (Nicola Giunta and Maria Rapp) 26/06/2015 to 25/12/2015 citing Flat 16 (£1383.33 pcm rent plus £40 gas)

- Euro lets Bank Statement (Giunta N) 27/03/2017 to 26/02/2018 citing Flat 16 and showing regular payments of £1383.33
- In conclusion, evidence submitted, on the balance of probability, supports the case

Summary of the Council's case

165. In addition to its case relating to the common evidence the gist of the Council's case is as follows:

- Correspondence in 2014 does not state the specific unit
- Tenancy Agreements 2013 and 2014 do not refer to Flat 16 and are ambiguous
- The validity of the supporting Emails not considered to be legally binding
- One of the agreements is a holiday let
- No utility bills or council tax submitted
- In conclusion, there is reasonable doubt that the evidence is sufficient to prove four years continuous occupation

My Assessment

166. The ASTAs refer either to reference 4015 or Flat 16. These accord with the RS referencing and numbering system and I am therefore satisfied that they relate to the one bedroom, Flat 16, at No 40 Danbury Street.

167. Most of the ASTAs appear to be the normal agreements used by the appellant company and its tenants. One, however, is a 'Holiday Contract (S O'Farrell)'. The first, in the name of Jose Sebastian is dated 9 April 2013, 2 months before the relevant date of 9 June 2013. There is also e-mail evidence relating to when this tenant vacated the flat. I am satisfied, therefore that the first tenancy agreement was rolled over'. This takes the occupancy record up until 8 July 2014.

168. After a negligible tenancy change-over period the next ASTA was in the name of Argelo Besello and was dated 14 July 2014. The tenant vacated the flat before the expiry date and left on 1 September 2014 after a period of around 46 days, in effect a short-term let. Between 2 September 2014 and 13 January the flat was unoccupied and this is stated to be for 'works carried out on the property'. I return to this point below.

169. The next occupier of the flat was Vilmos Palko who moved in on 14 January 2015. Again it is stated that this tenant vacated earlier than the expiry date and indeed the tenant left after around 64 days. Again this equated to a short-term let period of less than 90 days. Following another negligible gap for a change in tenancy, Stephen O'Farrell moved in on the basis of a 'Holiday Contract'. His tenancy lasted for about 3 weeks and he vacated the flat on 17 April 2015.

170. After a gap of around 4 days Francesca Repetto Rojas moved in and again it is stated that the property was vacated earlier than the expiry date. This tenant left on 23 June 2015 after a period of around 58 days. On 26 June 2015 Nicola Guinta and Maria Rapp entered into an ASTA which is stated to have been rolled over until well after the LDC application date. There is evidence of bank statements relating to this tenancy. These show payments for Flat 16 from 27/3/17 until 26/2/18. I am satisfied, therefore that this tenancy rolled over as stated.

171. From the above evidence it seems to me that there were normal ASTAs covering the beginning and the end of the relevant 4 year period. However, between 14 July 2014 and 23 June 2015, there were 4 tenancies of less than 90 days all within one calendar year. For the duration of these tenancies, therefore, the Flat 16 could not be said to have been in Class C3 residential use. Instead it had been used

for short-term lets. The gap of 3 months for works being carried out is not explained and, as for other flats, there is no actual evidence relating to such works.

Conclusion

172. For the reasons set out above I can only conclude that, on the balance of probability, the appellant company has not precisely or unambiguously shown that Flat 16 was in continuous use as a Class C3 residential unit from 9 June 2013 until 9 June 2017. It follows that I consider the Council's decision not to issue a LDC was well-founded. The appeal fails and a LDC will not be issued.

Appeal Q: APP/V5570/X/17/3186370 Flat 17, 40 Danbury Street, London N1 8JU

Introduction

173. The application is dated 8 June 2017. Thus it must be shown that the unit has been in continuous use in Class 3 residential since 8 June 2013. The Council tax reference (from the e-mail referred to above) is 4016. Flat 17 is a studio flat on the ground floor of No 40 and is stated to have a total area of 25.64m².

Summary of the Appellant's case

174. As well as the general evidence relating to all of the flats at No 40 (the former Courtyard) the appellant company relies upon the evidence set out below.

- Eurolets OH 05/09/13 to date citing tenancy agreement and bank statements (No bank statements on file) to show occupancy by one tenant
- ASTA (Timea Toinai) 05/09/13 to 05/03/14, 40 Courtyard ref 4016 (£1040 rent)
- Sworn Declaration by Timea Toinai dated 04/12/17 confirming continuous residency of Flat 17 since 05/09/13
- In conclusion, evidence submitted, on the balance of probability, supports the case

Summary of the Council's case

175. In addition to its case relating to the common evidence the gist of the Council's case is as follows:

- The tenancy agreement only relates to 2013/14 and does not mention Flat 17
- Council Tax records start April 2014 so do not cover 4 years
- No utility bills provided
- The evidence does not robustly confirm continuous residential occupancy

My Assessment and Conclusion

176. Although the Council states that the ASTA does not refer to Flat 17, it does refer to reference 4016 which accords with the RS referencing and numbering system for No 40 Danbury Street. I am therefore satisfied that the ASTA does relate to Flat 17.

177. Timea Toinai confirms in the Statutory Declaration (SD) that the agreement to reside at Flat 17 was entered into on 5 September 2013. It is also stated that there have been no breaks in the tenancy of the Flat. The ASTA is dated 5 September 2013 and as indicated above, although addressed as '40 Courtyard' the reference number is correct for Flat 17, being 4016.

178. In the SD Timea Toinai solemnly declares that the premises have always been used during the tenancy as a residential property and that it had not been used for any other purpose. It is confirmed that No 17 was previously known as Flat 4016.

Like Mr Ward it is confirmed that the submitted plan is a fair and accurate representation of the property and that since the start of his tenancy there have been no internal alterations but only minor maintenance work. This also accords with the SD of Mr Davis. The tenant goes on to declare that to the best of her knowledge all of the units within No 40, with the exception of No 37, have been used as residential properties.

179. Despite the lack of supporting evidence I have no reason to question the solemnly declared document. The Council has not provided any evidence of its own to counter the SD. I accept that the ASTA did not commence until after the start of the relevant date but it seems clear to me that this tenant has occupied the property for over 4 years and, on the balance of probability (and based on the overall history of No 40, The Courtyard), I consider that Flat 17 was occupied in the same manner before the start of the ASTA. Even if this had not been the case the appellant company would, in my view, be successful on the four year rule, if a later LDC application had been made.

Conclusion

180. In conclusion, therefore, it is my view that on the balance of probability the appellant company has shown that Flat 17 had been in continuous occupation as a Class C3 residential unit for the necessary 4 year period commencing on 9 June 2013 and ending on the date of the LDC application for this flat. It follows that in this instance I consider that the Council's decision not to issue a LDC was not well-founded. The appeal, therefore, succeeds and a LDC will be issued.

Appeal R: APP/V5570/X/17/3186377 Flat 18, 40 Danbury Street, London N1 8JU

Introduction

181. The application is dated 8 June 2017. Thus it must be shown that the unit has been in continuous use in Class 3 residential since 8 June 2013. The Council Tax reference (from the e-mail referred to above) is 4017. Flat 18 is a studio flat and is stated to have a total area of 25.18m².

Summary of the appellant's case

182. As well as the general evidence relating to all of the flats at No 40 (the former Courtyard) the appellant company relies upon the evidence set out below.

- PS listing agreements as Iqra Akram 29/09/16 to present; Paolo Consorti 27/02/15 to 24/08/2016; Simone Galvagno 27/06/14 to 01/02/15; Ryan Hill 24/03/14 to 16/05/14; Adrian Cox and Mia Robinson 25/03/13 to 25/02/14
- ASTA (Cox) 25/03/2013 citing 26 Danbury Street ref.4017 (£1100 pcm rent)
- Emails (Adrian Cox and Euro lets) 15/02/2014 and 20/02/2014 re paying utility bills and moving into 27 Danbury Street, does not cite Flat 18
- ASTA (Ryan Hill) 24/03/14 to 24/09/14, 40 Danbury Street ref. 4017 (£1170 rent)
- E-mail (Ryan Hill and Euro lets) 14/04/14 re leaving date 16/05
- ASTA (Simone Galvagno) 27/06/14 to 27/12/14, 40 Danbury Street ref 4017 (£1083.33 pcm rent plus £40 gas)
- Email (Simone Galvagno) 22/12/2014 re moving out end 01/2015
- ASTA (Paolo Consorti) 27/02/15 to 26/07/15 citing Flat 18 (£1213.33 and £40 gas)
- E-mails (Consorti and Euro lets) 19/02/15 re moving in; 22/09/15 re deliveries

- Eurolets bank Statement (Akram I) 27/03/17 to 26/02/18 citing Flat 18 and showing regular payments (£1666.66)
- In conclusion, evidence submitted, on the balance of probability, supports the case

Summary of the Council's case

183. In addition to its case relating to the common evidence set out above the gist of the Council's case is as follows:

- Tenancy agreements for 2013 and 2014 do not identify flat
- Tenancy agreement dated 25/03/13 shows end date as same day
- No council tax records No utility bills submitted
- The evidence does not robustly confirm continuous residential occupancy

My Assessment and conclusion

184. There are 5 agreements relating to tenancies. The first is in the name of Adrian Cox and is dated 25 March 2013. The expiry date is the same date and is clearly incorrect. It does not refer to Flat 18 but does give the appropriate reference number of 4017 which accords with the RS referencing and numbering schedule. There are e-mails to indicate that this tenant vacated the flat in February 2014 when he moved to No 27 Danbury Street. The next ASTA is in the name of Ryan Hill and is dated 24 March 2014. It refers to ref 4017 which is Flat 18.

185. This tenancy ended early and Mr Hill ended his tenancy on 16 May 2014. Thus he had occupied Flat 18 for around 70 days which in effect was a short-term let or use of the flat. The next tenant was Simone Galvagno and the ASTA was dated 27 June 2014. It refers to 'Courtyard' and 'Ref 4017' which is clearly Flat 18. The evidence is sufficient to indicate that this tenant vacated the flat at the end of January 2015, having occupied it for just over 7 months.

186. Paulo Consorti was the next tenant and the ASTA is dated 27 February 2015 and specifically refers to Flat 18. There are e-mails relating to the start of the contract which had an expiry date of 26 August 2015. Between that date and the start of another contract in the name of Akram, there are no submitted documents. Although the PS indicates that Paulo Consorti occupied the flat until 24/8/16, there are no corroborative bank statements or any other information to prove that this was the case. There are relevant bank details linking Igra Akram to Flat 18 but these were well after the dates that Paulo Consorti is indicated to have occupied the flat.

Conclusion

187. On the basis of all of the evidence and the unexplained significant gap in unproved occupation, I do not consider that, on the balance of probability, the appellant company has shown that Flat 18 had been in continuous Class C3 residential use from 8 June 2013 until 8 June 2017, the date of the application. It follows that I consider the Council's decision not to issue a LDC is well-founded. The appeal fails and a LDC will not be issued.

Appeal S: APP/V5570/X/17/3187300 Flat 22, 40 Danbury Street, London N1 8JU

Introduction

188. The application is dated 9 June 2017. Thus it must be shown that the unit has been in continuous use in Class 3 residential since 9 June 2013. The Council tax

reference (from the e-mail referred to above) is 4023. Flat 22 is a studio flat on the first floor and is stated to have a total area of 21.27m².

Summary of the appellant's case

189. As well as the general evidence relating to all of the flats at No 40 (the former Courtyard) the appellant company relies upon the evidence set out below.

- Eurolets OH 10/05/13 to date citing Tenancy Agreements, emails and bank statements to show occupancy by six different tenants. Unoccupied periods: 31/05/14 to 27/06/14; 07/11/14 to 06/12/14; 02 to 31/03/16; 14 to 22/01/2017
- ASTA (Appleton) 10/05/13 to 09/11/13 citing 40 Danbury Street ref 4024 (£901)
- Eurolets Bank Statements (Michael Appleton) 30/05/13; 24/06/13; 28/09/13 showing rental payments of £910
- ASTA (Simon Falkus) 28/06/14 to 23/12/14, 40 Danbury Street ref 4024 (£953.33)
- Eurolets Bank Statement (Simon Falkus) 07/07/2014; 26/08/2014; 26/09/2014 showing rent payments of £953.33 and 06/11/2014 showing deposit return
- Assured Short-hold Tenancy Agreement (Van Ruymbeke Laure) 23/01/2017 to 22/07/2017 citing Flat 22 (£1083.33 pcm rent plus £40 gas)
- In conclusion, evidence submitted, on the balance of probability, supports the case

Summary of the Council's case

190. The gist of the Council's case is as follows:

- PS and OH show 6 tenants, but only three Agreements were submitted
- Two of the Agreements do not cite Flat 22
- Emails do not always match the tenant names - correspondence is mentioned eg. Rebecca Harries, Stephanie Hughes and Rebecca Hughes, but is not on file
- No utility or Council tax bills
- Evidence is insufficiently precise and unambiguous

My Assessment and conclusion

191. Although two of the agreements do not cite Flat 22, they do refer to the correct reference of 4024. On the other hand the ASTA in the name of Van Ruymbeke Laure, although it refers to Flat 22 it gives the wrong reference, 4022 which is for Flat 21. Nevertheless it would appear that the agreements do all relate to Flat 22 or reference 4024.

192. The OH showed 6 tenants but as indicated by the Council only three were submitted initially. However, I have now received copies of the other three agreements and have taken them into account.

193. Apart from periods of around one month between tenancies the OH shows more or less continuous occupation for the relevant 4 year period. On 9 June 2013 the ASTA shows that Michael Appleton occupied No 40 Danbury Street, ref 4024. There is evidence that the ASTA was 'rolled over' and there is evidence of a move out date. Simon Falkus was the next tenant and he moved out earlier than the end date of the ASTA. Again there is e-mail evidence relating to this tenancy.

194. The other ASTAs in the names of Murrell, Harries and Morris (the three initially missing) clearly indicate the names and dates shown in the OH. In each case, albeit not a complete picture, there is evidence of moving out dates and some bank statements. The dates of these documents relate to the overall occupancy history submission. There is also evidence that the last ASTA was rolled over and that on June 13 2017 the occupant of the flat was Laure Van Ruymbeke.

Conclusion

195. On the basis of all of the information provided I consider that, on the balance of probability, Flat 22 had been in continuous occupation for the required 4 year period. It follows that, in my view, the Council's decision not to issue a LDC was not well-founded. The appeal therefore succeeds and a LDC will be issued.

Appeal T: APP/V5570/X/17/3187304 Flat 23, 40 Danbury Street, London N1 8JU

Introduction

196. The application is dated 13 June 2017. Thus it must be shown that the unit has been in continuous use in Class 3 residential since 13 June 2013. The Council tax reference (from the e-mail referred to above) is 4025. Flat 23 is one of the smallest studio flats and is on the first floor. It is stated to have an overall area of 18.95m².

Summary of the appellant's case

197. As well as the general evidence relating to all of the flats at No 40 (the former Courtyard) the appellant company relies upon the evidence set out below.

- Eurolets OH 01/09/13 to date citing agreements; emails and bank statements, showing occupancy by four tenants. Unoccupied periods 25/06/14 to 26/07/14
- ASTA (Arran Richard Wylde) 01/09/13 to 01/03/14 citing 26 Danbury Street ref. 4025 (£927.97 pcm rent)
- Email (Arran Wylde and Eurolets) 03 and 04/06/14 re payments
- ASTA (Anna Pogorelova), Flat 23 - 29/02/16 to 29/08/16 (£1256.66 plus £40 gas)
- Eurolets Bank Statement (A Pogorelova) citing Flat 23 - 20/03/17 to 24/01/18 showing regular payments of £1296
- ASTA (William David Penfold and Heidi Ketherin Philip Smith) 03/02/18 citing Flat 23 (£1256.66 pcm rent plus £40 gas)
- Eurolets Bank Statement (Penfold WD) citing Flat 23 - 22/01/18 to 16/02/18
- In conclusion, evidence submitted, on the balance of probability, supports the case

Summary of the Council's case

198. In addition to its case relating to the common evidence set out above the gist of the Council's case is as follows:

- The 2013 agreement makes no reference to Flat 23
- Emails are uncorroborated
- No tenancy agreement submitted for Stevie Porter and Alexander Arbis - stated as occupants 27/07/2014 and 28/02/2016
- A Pogorelova bank statements don't show amount or ref Flat 23
- Unexplained gap 06/07/14
- Evidence is insufficiently precise and unambiguous

My Assessment

199. The first ASTA is dated 1 September 2013 in the name of Arran Richard Wylde. It has a reference number of 4025 which according to the RS schedule identifies it as Flat 23. There is e-mail evidence dated 3 June 2014 referring to the fact that Mr Wylde was moving from one property to another and that the rent would be higher for the second property. Neither Flat No is referred to in this correspondence. This

does not confirm that Mr Wylde moved out of Flat 23 on 24 June 2014. There is also no bank detail evidence to suggest that this first ASTA was 'rolled over'.

200. The next occupancy is stated to be by Stevie Porter and Alexander Arbis. The start date is given as 27 January 2015 and it is indicated that this tenancy too also 'rolled-over', in this case until 28 February 2016. However, again there is no conclusive evidence submitted to show that this was the case. In fact, other than one e-mail (June 2014) there is nothing submitted between October 2014 and February 2015 (which was the ASTA in the name of Anna Pogoreleva) to corroborate the OH and the PS information.

201. There is some bank information to support the length of this third agreement which takes the occupation of this tenant until after the date of the LDC application but the lack of documentary evidence referred to above casts doubt on the appellant company's overall case relating to the continuous use of Flat 23.

202. Having considered all of the submissions I accept that the agreements were indeed made as set out and that the first one started before the relevant date and the last one finished after the date of the LDC application. However I am concerned about the gaps referred to above. I do not consider that there is sufficient precise and unambiguous evidence to indicate that the first tenant occupied for the full period as stated. Secondly there is no corroborative evidence for the period between October 2014 and February 2015.

Conclusion

203. For the above reasons, therefore, I do not consider that the appellant company has shown, on the balance of probability that Flat 23 had been in continuous use as a Class C3 residential unit for the four year period commencing 13 June 2013 and ending on the date of the LDC application, 13 June 2017. I conclude that the Council's decision not to issue a LDC was well-founded and the appeal must fail. A LDC will not be issued.

Appeal U: APP/V5570/X/18/3195595 Flat 24, 40 Danbury Street, London N1 8JU

Introduction

204. The application is dated 9 June 2017. Thus it must be shown that the unit has been in continuous use in Class 3 residential since 9 June 2013. The Council tax reference (from the e-mail referred to above) is 4026. Flat 24 is another extremely small studio flat located on the first floor. The overall area is given as 17.7m².

Summary of the Appellant's case

205. As well as the general evidence relating to all of the flats at No 40 (the former Courtyard) the appellant company relies upon the evidence set out below.

- Eurolets OH 22/03/13 to date citing Agreements, emails and bank statements to show occupancy by four tenants. Unoccupied periods: 17/02/15 to 30/04/15; 30/10/15 to 06/11/15; 23/11/16 to 12/01/17
- ASTA (Magali Giraudy) citing 40 Danbury Street ref. 4026 - 22/03/13 to 21/09/13 (£953.33 pcm rent) and 12/11/14 to 11/05/15
- Email 16/02/2015 (Magali Giraudy and Euro lets) re rent arrears
- ASTA (Stefano Pecchio) citing Flat 24 and Flat 11 - 01/05/15 to 01/11/15 (£866.66 pcm rent and £50 gas)

- E-mails (Stefano Pecchio and Euro lets) : 14/09/15 from Flat 24 re new Flat; 14/10/14 re move; 01/12 15 from Flat 24
- ASTA (Jenny Elisabeth Baer and Charles Keita), Flat 24 - 07/11/15 to 06/05/16 and 02/06/16 to 01/12/16 citing flat 24 (£1040 pcm rent plus £40 gas)
- Deposit statement (6 months from 07/11/15)
- Assured Short-hold Tenancy Agreement (Silvano Rossi) citing flat 24 - 13/01/17 to 12/04/17 (£866.66 pcm rent plus £25 gas)
- Deposit Statement (6 months from 13/01/17)
- In conclusion, evidence submitted, on the balance of probability , supports the case

Summary of the Council's case

206. In addition to its case relating to the common evidence set out above the gist of the Council's case is as follows:

- Deposit information does not cite Flat 14
- Rossi tenancy documents do not accord with the appellant's PS
- Baer and Keita documents do not accord with the appellant's PS
- No corroborating evidence for the length of tenancy claimed for Stefano Pecchio
- 2013/14 agreements do not cite specific flat
- Discrepancies between 2013/14 agreements and claimed occupancy period
- E-mails uncorroborated
- No utility or council tax bills
- Evidence is insufficiently precise and unambiguous

My Assessment

207. The first 2 ASTAs are in the name of Magali Giraudy and accord with the dates in the PS/OH. The first one quotes reference 4026 and the second Flat 24. These accord with the RS referencing and numbering system and I am satisfied that they relate to Flat 24. The other 4 ASTAs also refer to Flat 24 and again I see no reason to question that they relate to Flat 24. The first one is indicated to have rolled over and there is reference in an e-mail during the second period of arrears. On the basis of the evidence I consider that Megali Giraudy occupied Flat 24 from at least 9 June 2013 (the relevant date) to 16 February 2015.

208. There was then a significant gap in occupation, between February 2015 and the end of April 2015. This is stated to be for works carried out and finding a new tenant. However, again the appellant company has failed to corroborate this statement and there are no invoices or bills relating to any works. In a previous case the company had provided details of a payment to a worker who was occupying another flat. It is unusual therefore, that it has not been able to show details and payments relating to this flat. In my view there is no way of concluding that the flat was unoccupied due to works being carried out.

209. The next 2 ASTAs in the names of Baer and Keita show more or less complete occupation from November 2015 through to November 2016 and in my view this period is not in question. However, there is then another significant period of around 50 days when further works and change of tenancy are quoted as a reason for the vacancy. For the same reasons as set out above, there is no way of concluding that these were the reasons for this unoccupied period. It also seems unusual for the need to carry out further works if works had been carried out the previous year. I do not question the final ASTA in the name of Rossi.

Conclusion

210. I acknowledge that the appellant company has shown that the flat was occupied as a Class C3 residential unit for most of the relevant 4 year period. However, the two significant gaps are not precisely or unambiguously explained. I do not consider, therefore, that Flat 24 has been in such a use for a continuous 4 year period commencing on 9 June 2013 and ending on 9 June 2017, the date of the LDC application. It follows that I consider the Council's decision not to grant a LDC was well-founded. The appeal fails and a LDC will not be issued.

Appeal V: APP/V5570/X/17/3187317 Flat 25, 40 Danbury Street, London N1 8JU

Introduction

211. The application is dated 13 June 2017. Thus it must be shown that the unit has been in continuous use in Class 3 residential since 13 June 2013. The Council tax reference (from the e-mail referred to above) is 4027. Flat 25 is one of the smallest studio flats and is on the first floor. It has a total area of 14.12m².

Summary of Appellant's case

212. As well as the general evidence relating to all of the flats at No 40 (the former Courtyard) the appellant company relies upon the evidence set out below.

- Eurolets OH 13/03/13 to date citing agreements, emails and bank statements to show occupancy by five tenants. Unoccupied periods: 13/10/14 to 20/11/14; 29/08/15 to 04/02/16; 21 to 28/07/17. Occupied by caretaker 29/06 to 15/11
- ASTA (Luis Coelho Ferreira), 40 Danbury Street ref. 4027 - 22/03/13 to 21/09/13 (£905 pcm rent)
- E-mails (Luis Ferreira and Euro lets) 12 to 15/09/14 re moving out 12/10/14
- Letter 13/06/17 re Andrew Robinson, tenant Flat 25 21/11/14 to 28/08/15
- E-mails (Andrew Robinson and Eurolets) 8 and 9/09/15 recording rent payments 20/11/14 to 28/07/15
- ASTA (Hye Eun Yoon) citing Flat 25 - 05/02/16 to 04/08/16
- E-mails (Eun Yoon and Eurolets) 25/01/16 to 01/02/16 re moving out 28/06/16
- ASTA (Warp) citing Flat 25 - 16/11/16 to 15/05/17 (£950 rent plus £40 gas)
- Deposit record 16/11/16 for 6 months
- ASTA (Jack Charles Crawford Chambers), Flat 25 - 29/07/17 to 28/01/18 (£910 rent)
- In conclusion, evidence submitted, on the balance of probability, supports the case

Summary of the Council's case

213. In addition to its case relating to the common evidence set out above the gist of the Council's case is as follows:

- One tenancy agreement not submitted
- 2013 agreement does not cite Flat 25 and ref does not match RS Inspectors email
- Significant gaps e.g. between 09/15 and 02/16
- Evidence about Robinson's tenancy and the period after his departure is limited
- No utility bills or council tax payments submitted
- Evidence is insufficiently precise and unambiguous

My Assessment

214. The first ASTA in the name of Ferreira is referenced 4027 (the correct reference for Flat 25) and those in the names of Hye Eun Yoon and Warp refer specifically to Flat 25. There is evidence of the first tenant moving out on 12 October 2014 and similarly for the second tenant an e-mail confirmation of leaving the flat. I have not had sight of the ASTA in the name of Robinson but have noted the letter from the appellant company dated 13 June 2017. This tenancy agreement is stated to have ended in August 2015 after which there was a 6 month gap before Hye Eun Yoon commenced occupation.

215. I have noted that Mr Robinson had been hospitalised and noted the reasons for this. In the circumstances I also accept that doctors and police would have been involved and it seems reasonable that the flat would have needed a 'complete renovation'. However, again, as for other cases where works have been stated to be a reason for non-occupancy, there are no details submitted to corroborate the appellant's case. There is also no evidence that the Council was paying Mr Robinson's rent due to him being on the housing benefit list. In both instances one would normally have expected some records to reinforce the PS and the OH information.

216. From 29 June 2016 until 15 November 2016, a period of over 4 months, it is stated that the flat was occupied by Eurolets Caretakers for all of the properties. However, there is no evidence of who these individuals were and no documentary evidence to corroborate the OH statement. As for Mr Ward and Mr Davis, one might have expected one or other of the caretakers to sign a SD to the effect that they had occupied the property during this period. There is nothing however and I cannot accept a simple statement as set out in the OH.

217. I accept that the third ASTA in the name of Ward did refer to Flat 25 but the reference was incorrect, being 4024 instead of 4027. The reference 4024 is for Flat 22. The last ASTA in the name of Chambers is dated after the date of the LDC application and is not therefore required as part of the evidence relating to the relevant 4 year period.

Conclusion

218. On the basis of all of the evidence and particularly taking into account the significant gaps in occupancy, I do not consider that the appellant company has shown, on the balance of probability, that Flat 25 had been occupied continuously from 13 June 2013 to 13 June 2017. It follows that I consider the Council's decision not to issue a LDC was well-founded. The appeal fails and a LDC will not be issued.

Appeal W: APP/V5570/X/17/3186384 Flat 26, 40 Danbury Street, London N1 8JU

Introduction

219. The application is dated 9 June 2017. Thus it must be shown that the unit has been in continuous use in Class 3 residential since 9 June 2013. The Council tax reference (from the e-mail referred to above) is 4028. Flat 26 is on the first floor and is stated to have a total area of 17.65m².

Summary of Appellant's case

220. As well as the general evidence relating to all of the flats at No 40 (the former Courtyard) the appellant company relies upon the evidence set out below.

- Eurolets OH 24/01/14 to date citing tenancy agreements, bank statements and emails to show occupancy by six different tenants. Unoccupied periods: 26/08/15 to 10/09/15; 11/03/16 to 20/05/16; 28/04/17; 29/10/17 to 10/11/17
- ASTA (Tod Francis) citing 40 Danbury Street ref.4028 - 28/01/13 to 27/07/13 (£866.66 rent) not included in Schedule above
- Eurolets Bank Statements (Francis) 23/05/13; 24/10/13; 27/12/14 (£866.66)
- ASTA (Gabor Varadi) citing 40 Courtyard ref.4026 (correct ref for Flat 26 is 4028) 24/01/14 - only front page on file 31/03/16 (Islington Council Tax) re discrepancy - records show Gabor Varadi at Flat 26
- ASTA (Melissandre Michelle Varin and Vincent Jean-Baptiste) citing Flat 26 - 11/09/2015 to 10/03/2016 (£126.66 pcm rent and £40 gas)
- Email (Melissandre Varin and Euro lets) 19/01/16 re leaving 10/03/16
- ASTA (Juan Ramon Medel) citing Flat 26 - 21/05/16 to 20/11/16 (£1083.33 rent plus £40 gas) Ramon Medel Caceres and Eurolets) 01/03/17 re leaving 20/03/17
- Email (Juan Ramon Medel and Euro lets) 01/03/17 re leaving 20/03/17
- ASTA (Ekeni-Maria Gemtou) citing Flat 26 - 28/04/17 to 27/10/17 (£1083.33 rent plus £40 gas)
- Eurolets bank Statement 28/04/17 to 24/05/17 (2 payments £1662.74 and £1058.33)
- ASTA (Nicholas Sean Jackson) citing Flat 26 - 01/03/2018 to 01/09/2018 (££1020.16 pcm rent plus £40 gas)
- In conclusion, evidence submitted, on the balance of probability , supports the case

Summary of Council's case

221. The gist of the Council's case is as follows:

- 2013 agreement does not refer to Flat 26
- Tenancy overlap shown 24/01/2014 and 27/12/2014 and uncertainty about Flat number occupied by Gabor Varadi
- No evidence for gap 10/03/2016 and 21/09/2016
- Evidence is insufficiently precise and unambiguous

My Assessment and conclusion

222. The PS and the OH do not tally with the ASTAs submitted. There is a front page of an ASTA in the name of Gabor Varadi dated 24 January 2014. This has the reference 4026 which is for Flat 24. In the file for Flat 28 I found another ASTA in the names of Gabor Varadi and Zsuzanna Marton. This was correctly referenced 4028 for Flat 26 but the date was 4 March 2014. Thus it is far from clear that Mr Varadi occupied Flat 26 from 24 January 14 as stated, since the incomplete ASTA refers to the wrong flat. The OH then shows him leaving on 25 August 2015 and from September 2015 to March 2016 there seems to have been a straightforward tenancy in the names of Varin and Jean-Baptiste.

223. From 11 March 2016 to 20 May 2016, a period of around 70 days, the flat is stated to be unoccupied and again this is stated to be for works to be carried out. As for all of the other claimed work vacancies, there are no records of invoices or payments of any kind for such works. The next ASTA is in the name of Medel and it relates specifically to Flat 26. There is evidence that the tenant vacated the property on 20 March 2017.

224. The next ASTA is in the name of Elena Maria Gentou and this also referred to Flat 26. In the OH she is stated to have vacated the flat on 28 October 2017 after

which it was unoccupied but only for a negligible period. The OH then indicates that the flat was occupied by Annaliese McIntosh from 11 November 2017 until 28 February 2018 but the start date of this was after the date of the LDC application of 9 June 2017. Although the PS indicates Eleni-Maria Gentou as being in occupation from 28 April 2017 to present day, one must assume for the purposes of this case that 'present day' was 9 June 2017.

225. The first ASTA in the name of Tod Francis refers to the correct reference 4028 and is dated 28 January 2013 with a date of expiry of 27 July 2013. This would have taken the tenancy through the start date of the relevant 4 year period, 9 June 2013. Tod Francis is not referred to in the OH which commences in January 2014 but the PS shows his occupancy as ending on 19 February 2014 and there is evidence of rental payments. It seems to me therefore that from 9 June 2013 until January 2014 Mr Francis occupied Flat 26.

226. However, in this case I find two issues. The first relates to Mr Varadi's occupancy and the confusion around the two tenancy agreements and the second is the 70 day gap between 11 March 2016 and 20 May 2016. As indicated above there is no evidence of works being carried out and, overall, I find the submitted evidence to be imprecise and ambiguous.

Conclusion

227. In conclusion I find that the appellant company has failed, on the balance of probability to show precisely and unambiguously that Flat 26 was in continuous occupation as a Class C3 residential unit from 9 June 2013 until 9 June 2017. I find, therefore, that the Council's decision not to issue a LDC was well-founded and the appeal must fail. A LDC will not be issued.

Appeal X: APP/V5570/X/17/3187316 Flat 27, 40 Danbury Street, London N1 8JU

Introduction

228. The application is dated 9 June 2017. Thus it must be shown that the unit has been in continuous use in Class 3 residential since 9 June 2013. The Council tax reference (from the e-mail referred to above) is 4029. Flat 27 is on the first floor and is shown to have a total area of 18.77m².

Summary of Appellant's case

229. As well as the general evidence relating to all of the flats at No 40 (the former Courtyard) the appellant company relies upon the evidence set out below.

- Eurolets OH 25/03/13 to date citing agreements, emails and bank statements to show occupancy by three tenants. Unoccupied periods: 24/07/14 to 03/08/14; 18/03/17 to 14/04/17
- ASTA (Prat), 26 Danbury Street ref 4029 - 25/03/13 (£962.97 rent)
- Eurolets Bank Statements (T Prat) 30/04/14 and 02/06/14 -2 payments of £866.67
- ASTA (Arturo Fernandez Villalba) citing 40 Danbury Street ref. 4029 - 04/08/14 to 04/02/15 £953.33 rent and £40 gas)
- E-mails (Arturo Fernandez Villalba and Euro lets) 08/03/17 re gap in occupancy 17/03/17 to 07/04/17
- ASTA (Wagstaff), Flat 27 - 15/04/17 to 14/10/17 (£1018.33 rent plus £40 gas)
- Eurolets Bank Statement (Geoffrey Wagstaff) 06/04/17 to 26/02/18 showing regular payments of £1058.33

- In conclusion, evidence submitted, on the balance of probability , supports the case

Summary of Council's case

230. In addition to its case relating to the common evidence set out above the gist of the Council's case is as follows:

- Only a start date is shown on the 2013 agreement
- No specific flat number shown in agreement
- Bank statements do not refer to flat, do not match rent and are uncorroborated
- 2014 agreement does not refer to specific flat
- E-mails not corroborated
- Additional bank statements now show final tenant's occupancy as stated
- Bank Statements do not reference specific flat
- No utility bills or council tax payments submitted
- Evidence is insufficiently precise and unambiguous

My Assessment

231. There are three sets of agreements between March 2013 and October 2017. Each of the three initial ASTAs is shown as being 'rolled-over'. Each one refers either to the correct RS reference of 4029 or to Flat 27. The first is the names of Prat and Mut. It commenced on 25 March 2013, 3 months before the relevant date of 9 June 2013. There are bank statement references/evidence, as well as evidence relating to when the tenancy was given up on 23 July 2014. Although the records are not complete, in my view they are sufficient to indicate that these tenants did indeed occupy Flat 27 for the periods stated in the PS and OH.

232. The second ASTA is in the name of Arturo Fernandez Villalba and was dated 4/8/14. There is clear evidence that the flat was vacated by the tenant on 17 March 2017. It was unoccupied for just short of one month when works were stated to have been carried out. In this case, even though there are no accounts regarding works carried out, it was for a period of less than one month. In addition, Mr Villalba who had initially intended to return to the flat had asked by e-mail the appellant company would have 'enough time to do the reparation works'. Thus in this instance I consider that the vacant period was negligible.

233. Following on from this tenancy the next ASTA was in the name of Geoffrey Wagstaff and it started on 15 April 2017. This was just two months before the date of the LDC application on 9 June 2017. There is evidence relating to bank payments by Mr Wagstaff to the appellant company between April and November 2017. The expiry date of the ASTA was October 2017 and thus it seems to me that Mr Wagstaff occupied Flat 27 for the period stated in the PS and the OH.

234. I conclude therefore that, on the balance of probability the appellant company has shown that Flat 27 had been in continuous use as a Class C3 residential unit between the dates of 9 June 2013 and 9 June 2017. I find the Council's decision not to issue a LDC to be unsound. The appeal is allowed and a LDC will be issued.

Appeal Y: APP/V5570/X/17/3187323 Flat 28, 40 Danbury Street, London N1 8JU

Introduction

235. The application is dated 9 June 2017. Thus it must be shown that the unit has been in continuous use in Class 3 residential since 9 June 2013. The Council tax

reference (from the e-mail referred to above) is 4030. Flat 28 is on the first floor and is stated to have a total area of 25.55m².

Summary of Appellant's case

236. As well as the general evidence relating to all of the flats at No 40 (the former Courtyard) the appellant company relies upon the evidence set out below.

- Eurolets OH 22/03/13 to date citing agreements, emails and bank statements to show occupancy by three tenants. Unoccupied periods: 09/06/16 to 27/06/16; 05/01/17 to 08/01/17
- ASTA (Nerea Arranbarri/Aitor Acilu Fernandez) citing 26 Danbury Street ref 4030 - 21/09/2013 to 21/03/2014 (£1055.56 pcm rent)
- ASTAs (Nerea Arranbarri/Aitor Acilu Fernandez) citing Flat 28 - 24/11/2014 to 24/05/2015 (£1040 pcm rent plus £40 gas)
- E-mail (Aranbarri and Eurolets) 17/05/16 re moving out 04/06/16 after 3 years
- ASTA (Frimpong), Flat 28 - 28/06/16 to 27/12/16 (£1126.66 rent plus £40 gas)
- ASTA (Adam Herbertson and Nika Varariuk) citing Flat 28 - 09/01/2017 to 08/07 2017 (£1213.22 pcm rent plus £40 gas)
- In conclusion, evidence submitted, on the balance of probability , supports the case

Summary of Council's case

237. In addition to its case relating to the common evidence above the gist of the Council's case is as follows:

- No ref to Flat 28 in 2013 agreement
- No bank statements
- Lack of Council Tax information
- Emails not formally confirmed
- Evidence is insufficiently precise and unambiguous

My Assessment

238. Details of 3 tenancies/agreements are submitted. The first ASTA is in the names of Nerea Aranbarri and Aitor Acila Fernandez and referred to reference 4030, the correct RS reference for Flat 28. It is dated 21 September 2013. A second ASTA in their names is dated 24 November 2014 and refers to Flat 28. There is an e-mail dated 17 May 2016 giving notice to vacate in June 2016 and referring to occupation of flat 28 for over 3 years. This would take their occupancy back to June 2013.

239. Having seen the other ASTAs which all relate to Flat 28 and having seen all of the other evidence I consider that there is sufficient information submitted to show, on the balance of probability that this flat has been occupied for the relevant 4 year period from 9 June 2013 until 9 June 2017.

Conclusion

240. I conclude in this instance that the appellant company has shown that Flat 28 was occupied continuously for the appropriate 4 year period as a Class C3 residential unit from 9 June 2013 until 9 June 2017. It follows that I do not consider the Council's refusal to issue a LDC was sound. The appeal therefore succeeds and a LDC will be issued.

Appeal Z: APP/V5570/X/17/3187307
Flat 29, 40 Danbury Street, London N1 6JU

Introduction

241. The application is dated 13 June 2017. Thus it must be shown that the unit has been in continuous use in Class 3 residential since 13 June 2013. The Council tax reference (from the e-mail referred to above) is 4031. Flat 29 is on the first floor and is indicated to have a total area of 19.23m².

Summary of Appellant's case

242. As well as the general evidence relating to all of the flats at No 40 (the former Courtyard) the appellant company relies upon the evidence set out below.

- Eurolets OH, 02/03/13 to date citing agreements and emails to show occupancy by five tenants. Unoccupied periods: 24 to 31/03/14; 30/10/16 to 20/01/17 for works
- ASTA (Carolina Nicov) citing 40 Danbury Street ref. 4031 - 02/03/13 to 01/09/13 (£823 pcm rent)
- ASTA (Mesquida), Flat 29 - 24/08/15 to 23/02/16 (£978.33 rent and £40 gas)
- Letter from Eurolets re Lolita Mesquida as tenant from 07/02/2015
- E-mails (Mesquida and Eurolets) 21/10/16 re moving out 29/10/16 and 25 and 26/10/16 asking for reference letter
- Bank Statements (L Mesquida) 26/06/15 to 03/10/16 regular payments £1018.33
- ASTA (Carlos Leighton), Flat 29 - 20/01/17 to 19/07/17 (£1040 and £40 gas)
- Eurolets bank Statement (Leighton Valdiv) 20/01/2017 to 05/05/2017 showing regular payments £1080
- Eurolets Bank Statement (Leighton Valdiv) 07/04/2017 to 24/10/2017 showing regular payments £1080
- ASTA (Johan Emanuel Hanssen Seferidis), Flat 29 - 28/10/17 to 27/04/18 (£953.33 and £40 gas)
- Bank Statement (Hanssen) 28/10/17 to 26/02/18 payments (two of £993.33)
- In conclusion, evidence submitted, on the balance of probability, supports the case

Summary of Council's case

243. In addition to its case in relation to the common evidence above the gist of the Council's case is as follows:

- One tenancy agreement does not mention flat 29
- Agreements do not cover 4 year period
- No council tax bills
- Emails not considered to be legally binding
- Gas bill split between properties - each dwelling should have its own utilities
- Amounts on bank statements vary from rents as stated
- Evidence is insufficiently precise and unambiguous

My Assessment

244. Between the relevant date and the date of 13 June 2013 and the date of the LDC application there are four relevant tenancies. All either refer to Flat 29 or to the correct RS reference 4031. The first is in the name of Carolina Nicov which covers a period from 2 March 2013 to 23 March 2014. There is sufficient evidence, in my view, that the initial ASTA which had the correct reference for Flat 29 of 4031, was 'rolled over' to 23 March 2014. After a negligible gap in occupancy the second

tenancy was in the name of Melanie Malherbe. There is sufficient evidence to show that this tenancy was also 'rolled over' and ended in February 2015.

245. The next ASTA is in the names of Lolita Mesquida and Brandon Davies and again I consider that the evidence is sufficient to indicate that they occupied Flat 29 from February 2015 until October 2016. I am also satisfied with the evidence which indicates that Carlos Leighton occupied the flat between 21 January 2017 and the date of the LDC application.

246. However, again there is a significant undocumented period of almost 3 months from 30 October 2016 to 20 January 2017. As for other flats, the reason for this unoccupied period is stated to be for 'works carried out'. But again there are no details of invoices relating to the works and even if carried out by Eurolets caretakers or workers, one would have expected records of some sort. The 'works carried out' reason for non-occupancy seems to be the standard reason given but without corroborative evidence.

Conclusion

247. On the basis of all of the evidence I conclude that the appellant company has not shown, on the balance of probability that Flat 29 had been in continuous Class C3 residential use from 13 June 2013 until 13 June 2017. I consider that the Council's decision not to issue a LDC was well-founded. The appeal therefore fails and a LDC is not issued in this case.

Appeal AA: APP/V5570/X/17/3187312 Flat 30, 40 Danbury Street, London N1 8JU

Introduction

248. The application is dated 9 June 2017. Thus it must be shown that the unit has been in continuous use in Class 3 residential since 9 June 2013. The Council tax reference (from the e-mail referred to above) is 4032. Flat 30 is on the first floor and is one of the larger studio flats with a stated area of 26.29m²

Summary of Appellant's case

249. As well as the general evidence relating to all of the flats at No 40 (the former Courtyard) the appellant company relies upon the evidence set out below.

- Eurolets OH 06/06/12 - to date citing tenancy agreements and emails to show occupancy by eight different tenants. Unoccupied periods: 17 to 22/09/14 ; 23/03/15 to 22/04/15; 26/06/15 to 05/07/15; 07 to 22/01/16; 24/06/16 to 25/07/17; 17/01/17 to 12/03 17; 08/08/17 to 08/09/17
- ASTA (Lisa Prem) citing 26 Danbury Street ref.4032 - 06/06/12 to 05/12/12 (£996.67 pcm rent)
- ASTA (Andrew Liner and Denise Ward) citing Flat 30 - 23/09/14 to 22/03/15 (£1126 rent plus £40 gas)
- Email (Andy Liner and Eurolets) 19/02/15 re moving out 22/03/15
- Holiday Contract (Duncan Garrett) citing Flat 30 - 23/04/15 to 25/06/15 (£2538.16 including gas)
- ASTA (Paul Hodgson) citing Flat 30 - 06/07/15 to 05/09/15 (£1213.33 rent plus £40 gas)
- Emails (Paul Hodgson and Eurolets) 04/12/15 notice of moving out 06/01/16 and 08/01/16 confirming move out of Flat 30

- ASTA (Nicholas Kozusok and Nicole Joseph) citing Flat 30 - 23/01/16 to 22/07/2016 (£1256.66 pcm rent and £40 gas)
- Letter (Nicholas Kozusok and Nicole Joseph to Eurolets) re notice on 23/06/16
- ASTA (Carlos Leighton) citing Flat 30 - 25/07/16 to 24/01/17 (£1256.66 rent plus £40 gas)
- Email (Carlos Leighton and Eurolets) 09 and 10/01 2017 re moving to another room and 16/01/17 move on 16/01/17- see flat 29
- ASTA (Danielle De Sousa Porcino) citing Flat 30 - 13/03/17 to 04/07/17 (£1213.33 pcm rent plus £40 gas)
- Eurolets Bank Statement (D De Sousa Porcino) 29/03/2017 to 20/07/2017 showing regular payments of £1406.26
- ASTA (Charlotte Ruth Munday) citing Flat 30 - 09/09/17 to 08/03/18 (£1000 rent and £40 gas)
- In conclusion, evidence submitted, on the balance of probability, supports the case

Summary of the Council's case

250. In addition to the comments relating to SDs and the common evidence above, the gist of the Council's case is as follows:

- Lack of Council Tax information
- Emails not formally confirmed
- Evidence is insufficiently precise and unambiguous

My Assessment

251. In this case there are six agreements which cover the relevant 4 year period. All of the periods of non-occupation are negligible and there are no significant gaps in the occupation of this flat. All ASTAs and a Holiday Contract (for 2 months) refer either to Flat 30 or the correct RS reference of 4032. There is sufficient evidence in my view that the first ASTA dated 6 June and in the name of Lisa Prem was 'rolled over' until September 2014. There is also evidence of the tenant being given notice to leave the flat on 17 July 2014.

252. Similarly there is evidence of the date on which Andrew Liner and Denise Ward vacated the flat following the start of the ASTA in their name. The short-term holiday let (Duncan Garrett) was for a period of less than 90 days and the 90 day limit relating to such a use (without a change of use occurring) within one calendar year was not exceeded. There is also sufficient evidence to indicate that the ASTA in the name of Paul Hodgson (6 September 2015) was 'rolled-over' and that it terminated on 6 January 2017.

253. The next tenancy was in the names of Nicolas Kozusok and Nicole Joseph and again I consider that there is sufficient evidence to show that the initial ASTA dated 22 January 2016 was 'rolled-over' until 23 June 2016 which was also confirmed as being the date which these tenants vacated the property. The next ASTA is dated 26 July 2016 in the name of Leighton and there is evidence to indicate that this tenant moved to Flat 29 in January 2016. A final ASTA for the necessary period was in the name of Porcino and again there is evidence including bank details that this tenant occupied Flat 30 from March 2017 until at least the date of the LDC application. The ASTA which follows this is not necessary as evidence.

Conclusion

254. On the basis of all of the agreements and other evidence, I consider that on the balance of probability the appellant company has shown that flat 30 was

occupied as a Class C3 residential unit for a continuous period of 4 years commencing on 9 June 2013 and ending on 9 June 2017. The appeal succeeds and a LDC is issued.

Appeal BB: APP/V5570/X/17/3187320
Flat 32, 40 Danbury Street, London N1 8JU

Introduction

255. The application is dated 8 June 2017. Thus it must be shown that the unit has been in continuous use in Class 3 residential since 8 June 2013. The Council tax reference (from the e-mail referred to above) is 4034. Flat 32 is on the first floor and is a large studio flat with a stated area of 26.48m²

Summary of appellant's case

256. As well as the general evidence relating to all of the flats at No 40 (the former Courtyard) the appellant company relies upon the evidence set out below.

- Eurolets OH 23/11/12 to date citing tenancy agreements, emails and bank statements to show occupancy by seven different tenants. Unoccupied periods : 24/04/13 to 29/06/13; 25/10/14 to 15/01/15; 21 to 31/07/16; 01 to 04/06 17; 10/12/17 to 25/01/18
- ASTA (Simona Popa) 23/11/12 to 22/05/13
- ASTA (Nadine Chughai 30/06/13 to 29/12/13
- ASTA (Rosalind Donhowe-Mason) 16/01/15 to 15/06/15
- ASTA (Sejun Hwang and Ainura Yessenova) 24/03/16 to 23/09/16
- ASTA (Lola Zaluski) citing Flat 32 - 01/09/16 to 01/03/17 (£1256.66 plus £40 gas)
- ASTA (Laurren Medford-Stewart) citing Flat 32 - 29/01/18 to 26/07/18 (£1256.66 pcm rent plus £40 gas)
- Deposit details (Laurren Medford -Stewart) 29/01/18 for 6 months

Summary of Council's case

257. In addition to the case in relation to the common evidence above, the gist of the Council's case is as follows:

- Tenancy expiry dates do not accord with the OH/PS
- Unexplained gaps
- Bank Statements do not refer to specific flats
- No utility bills or Council Tax payments
- Evidence is insufficiently precise and unambiguous

My Assessment

258. I agree with the Council that there are discrepancies between the PS and the OH. However, on the basis of the various ASTAs/agreements and other evidence I am satisfied that Flat 32 was occupied by the tenants as named between the dates of 23 November 2012 (tenant Popa) and December 2017 (Onofrei). I am also satisfied that the agreements related to Flat 32, reference 4034 of the RS schedule of referencing and numbering. However, due to the incomplete bank statements, deposit information and Council Tax details I consider that overall it is difficult to conclude that the flat was indeed occupied continuously as stated. The question is whether or not it was occupied continuously between 8 June 2013 and 8 June 2017, the date of the LDC application.

259. There are two significant gaps in occupation. The first is a period between April 2013 and the end of June 2013 when the flat was unoccupied for around 2 months. Part of this period, from 8 June 2013 until 29 June 2013, falls within the 4 year period during which it necessary to show continuous occupation of the flat. Later, in 2014, there is a gap of over 80 days between 25 October and 15 January 2015 where it is stated that 'works (are) being carried out'. As for other flats, where this reason has been given for non-occupancy, there are no submitted details or invoices relating to any works. As stated above in other cases I find it unusual that an established letting agency does not have such records or, if it has, why they have not been submitted in support of the application for a LDC.

260. In conclusion, therefore in this appeal and despite the ASTAs submitted, I do not consider that the appellant company has shown, on the balance of probability that Flat 32 had been in continuous use as a Class C3 residential unit between the dates of 8 June 2013 and 8 June 2017. I consider that the Council's decision not to issue a LDC in this instance was sound and the appeal, therefore fails. A LDC will not be issued.

Appeal CC: APP/V5570/X/17/3187326
Flat 33, 40 Danbury Street, London N1 8JU

Introduction

261. The application is dated 9 June 2017. Thus it must be shown that the unit has been in continuous use in Class 3 residential since 9 June 2013. The Council tax reference (from the e-mail referred to above) is 4035. Flat 33 is on the first floor and is stated to have a total area of 29.36m².

Summary of appellant's case

262. As well as the general evidence relating to all of the flats at No 40 (the former Courtyard) the appellant company relies upon the evidence set out below.

- Eurolets OH 23/11/12 to-date citing tenancy agreements, emails and bank statements to show occupancy by seven different tenants. Unoccupied periods : 24/04/13 to 29/06/13; 25/10/14 to 15/01/15; 21 to 31/07/16; 01 to 04/06/17 10/12/17 to 25/01/18
- ASTAs in name of Igor Sotsugov 5/5/17; 7/11/15; 6/5/16; 5/11/16.
- ASTA in the names of Freire/Carniero 30/8/12. A Holiday Contract in the name of Rachel Milne from 7/4/14 to 7/5/14

Summary of Council's case

263. The gist of the Council's case is as follows:

- Tenancy expiry dates do not accord with the OH/PS
- Unexplained gaps
- Bank Statements do not refer to specific flats
- No utility bills or Council Tax payments
- Evidence is insufficiently precise and unambiguous

My Assessment

264. There are 3 relevant tenancies and associated ASTAs covering the required four year period. The first is in the names of Freire and Carneiro and commenced on 30 August 2012. It was referenced 4035 which is the correct RS reference for Flat 33. There is evidence, albeit limited, to indicate that these tenants vacated the

property on 5 March 2014. The next agreement was a 'Holiday Contract' in the name of Milne which was for a fixed period from 7 April 2014 until 7 May 2014. However, there are then e-mails dated January 2015 to indicate that Rachel Milne would be vacating Flat 33 on 9 February 2015. This accords with the information in the PS dated 25 May 2017. The next ASTA is dated 9/5/15 and is in the name of Igor Sotsugov who entered into 3 more ASTAs for Flat 33 between 7/11/15 and 5/11/16. There is evidence to indicate rent payments for Flat 33 in this tenant's name from 27/3/17 until 26/2/18

265. From all of the submitted evidence I consider therefore that the appellant company has shown, on the balance of probability that Flat 33 was occupied as a Class C3 residential unit between the dates of 30 August 2012 and 5 March 2014; between 7 April 2014 and 11 February 2015 and between 9 May 2015 and the date of the LDC application, 9 June 2017.

266. However, there is a significant 3 month gap between the tenancies of Milne and Sotsugov (11 February 2015 to 9 May 2015).

Conclusion

267. On the basis of the above and in the absence of any information relating to the gap in occupancy/non-occupancy, I can only conclude that, in this case and on the balance of probability, the appellant company has not precisely and unambiguously shown that Flat 33 had been in continuous occupation as a Class C3 residential unit between 9 June 2013 and 9 June 2017. I consider that the Council's decision not to issue a LDC was sound and the appeal must fail. A LDC will not be issued.

Appeal DD: APP/V5570/X/17/3187315 Flat 35, 40 Danbury Street, London N1 8JU

Introduction

268. The application is dated 8 June 2017. Thus it must be shown that the unit has been in continuous use in Class 3 residential since 8 June 2013. The Council tax reference (from the e-mail referred to above) is 4037. Flat 35 is on the first floor and appears to be the largest of the studios with a stated overall area of 40.88m².

Summary of appellant's case

269. As well as the general evidence relating to all of the flats at No 40 (the former Courtyard) the appellant company relies upon the evidence set out below.

- ASTA (Matteo Tiddia and Michele Pala) citing 40 Ground ref. 4037 - 06/05/14 to 06/11/14 (£1126.66 rent)
- Eurolets Bank Statement (M Tiddia) 04/11/16 to 02/05/17 showing regular payment of £1166.66
- Sworn Declaration by Matteo Tiddia (04/12/2017) confirming that since 25/08/08 has lived at three different properties within 40 Danbury Street: Flat 8 from 25/09/08; Flat 18 from 13/03/10 and Flat 35 (4037) from 02/2013
- Currently resides at Flat 35

Summary of the Council's case

270. The gist of the Council's case is as follows:

- Bank statements have no reference to specific flat
- Significant gap between end of tenancy agreement and bank information
- Declaration states occupancy from 02/2013, Tenancy Agreement states 05/2014

- Evidence is insufficiently precise and unambiguous

My Assessment

271. Mr Matteo Tiddia in the submitted SD indicates that he currently (taken as the date of the LDC application 8 June 2017) lives at Flat 35. He solemnly declares that he has lived in 3 different flats at 40 Danbury Street since 2008. First No 10 (4009) from 28 September 2008; second Flat 18 (4017) from 13 March 2010 and finally this flat (No 35 (4037) into which he moved in February 2013. He declares that the flat has always been in residential use. Like others who have provided a SD he indicates that the plan submitted by Mr Ward is a true representation of the layout at No 40 and that all but one unit are residential and have been so since the start of his first tenancy. In a letter dated 25 October he confirms some of the points set out in his SD.

272. The only ASTA submitted is dated 6 May 2014 and is correctly referenced 4037. It is unusual, therefore, considering the above SD that there is no ASTA submitted to cover the date from February 2013 when this tenant states that he moved into Flat 35. From 6 May 2014 until 8 June 2017 I accept that Mr Tiddia occupied Flat 35.

273. But despite the SD there is no other firm evidence to indicate that he occupied No 35 from the relevant date of 8 June 2013 (the start of the necessary 4 year period) and 6 May 2014. This is a period of over 12 months and one would assume that either the appellant company or the tenant would have had some form of documentation to corroborate the SD. In the absence of such corroboration I find it difficult to conclude that the appellant company has provided sufficient precise and unambiguous information to prove its case.

Conclusion

274. On the balance of probability I do not consider that Flat 35 has been in continuous use as a Class C3 residential unit between 8 June 2013 and 8 June 2017. It follows that I consider the Council's decision not to issue a LDC to be well-founded. The appeal, therefore fails and a LDC will not be issued.

Other Matters

275. I have found in favour of the appellant company's case in 12 of these appeals and against them in 18 cases. I have found some decisions to be finely balanced but have based all of my decisions on all of the submissions including those submitted after the initial LDC applications were submitted. I have found discrepancies in both the appellant's and the Council's submissions and where appropriate these were clarified.

276. Where I have dismissed appeals the appellant company is not precluded from re-submitting the LDC applications assuming that the necessary evidence is available. It may well be the case that different 4 year periods of occupation could be proven. However, for these appeals the periods needed to relate to a continuous period dating back from the date of the LDC application to the relevant date 4 years prior to the applications.

277. Equally the Council is not precluded from taking enforcement action, if it considers it expedient to do so, against the units which I have not found to be lawful on the respective dates of the applications. Though, clearly any ground (d) appeal against such a notice would be on the basis that the 4 year period related to the date from the issuing of the notice back to a 'relevant date'.

278. In reaching my conclusions in each of these appeals I have taken into account all of the other matters raised by the Council and by and on behalf of the appellant company. These include the background and planning history, the legal basis set out on behalf of the appellant company; the evidence common to all units; the Statutory Declarations; the studio/flat specific evidence; the appendices relating to each unit; the Council's delegated reports and statements; the submitted plans and the photographic evidence. However, none of these carries sufficient weight to alter any of my conclusions on each of the units and nor are any other factors of such significance so as to change any of my decisions.

Formal Decisions

279. My decisions are set out above.

Anthony J Wharton

Inspector

See Schedule of other 29 Appeals below

See Separate Document for Lawful Development Certificates

SCHEDULE OF THE OTHER 29 APPEALS

Appeal B: APP/V5570/X/18/3195569 Flat 2, 40 Danbury Street, LONDON, N1 8JU

- The application reference P2017/2247/COL is dated 08/06/2017
 - The use for which a certificate of lawful use or development is sought is: the use of the site as a self-contained residential unit under Class C
-

Appeal C: APP/V5570/X/3187319 Flat 3, 40 Danbury Street, LONDON, N1 8JU

- The application reference P2017/2271/COL is dated 09/06/2017
 - The use for which a certificate of lawful development is sought is: the existing use in the layout of a studio flat, consisting of a lounge/bedroom, kitchen and bathroom
-

Appeal D: APP/V5570/X/18/3195572 Flat 4, 40 Danbury Street, LONDON, N1 8JU

- The application reference P2017/2272/COL dated is 09/06/2017
 - The use for which a certificate of lawful development is sought is: use of the site as a self-contained residential unit under Class C3
-

Appeal E: APP/V5570/X/17/3187293 Flat 5, Danbury Street, LONDON, N1 8JU

- The application reference P2017/2347/COL is dated 13/06/2017
 - The use for which a certificate of lawful development is sought is: the existing use in the layout of a studio flat, consisting of a lounge/bedroom, kitchen and bathroom
-

Appeal F: APP/V5570/X/18/3195573 Flat 6, Danbury Street, LONDON, N1 8JU

- The application reference P2017/2308/COL is dated 12/06/2017
 - The use for which a lawful development certificate is sought is: use of the site as a self-contained residential unit under Class C3
-

Appeal G: APP/V5570/X/17/3187322 Flat 7, 40 Danbury Street, LONDON, N1 8JU

- The application reference P2017/2273/COL is dated 09/06/2017
 - The use for which a lawful development certificate is sought is: use in the layout of a studio flat, consisting of a lounge/bedroom, kitchen and bathroom
-

Appeal H: APP/V5570/X/18/3195574 Flat 8, 40 Danbury Street, LONDON, N1 8JU

- The application reference P2017/2309/COL is dated 12/06/2017
 - The use for which a lawful development certificate is sought is: use of the site as a self-contained residential unit under Class C3
-

Appeal I: APP/V5570/X/18/3195575 Flat 9, 40 Danbury Street, LONDON, N1 8JU

- The application reference P2017/2310/COL is dated 12/06/2017
 - The use for which a lawful development certificate is sought is: use of the site as a self-contained residential unit under Class C3
-

Appeal J: APP/V5570/X/18/3195578
Flat 10, 40 Danbury Street, LONDON, N1 8JU

- The application reference P2017/2311/COL is dated 12/06/2017
 - The use for which a lawful development certificate is sought is: use of the site as a self-contained residential unit under Class C3
-

Appeal K: APP/V5570/X/18/3195580
Flat 11, 40 Danbury Street, LONDON, N1 8JU

- The application reference P2017/2312/COL dated 12/06/2017
 - The use for which a lawful development certificate is sought is: use of the site as a self-contained residential unit under Class C3
-

Appeal L: APP/V5570/X/18/3195584
Flat 12, 40 Danbury Street, LONDON, N1 8JU

- The application reference P2017/2313/COL is dated 12/06/2017
 - The use for which a lawful development certificate is sought is: use of the site as a self-contained residential unit under Class C3
-

Appeal M: APP/V5570/X/18/3195588
Flat 13, 40 Danbury Street, LONDON, N1 8JU

- The application reference P2017/2314/COL is dated 12/06/2017
 - The use for which a lawful development certificate is sought is: use of the site as a self-contained residential unit under Class C3
-

Appeal N: APP/V5570/X/18/3195591
Flat 14, 40 Danbury Street, LONDON, N1 8JU

- The application reference P2017/2315/COL is dated 12/06/2017
 - The use for which a lawful development certificate is sought is: use of the site as a self-contained residential unit under Class C3
-

Appeal O: APP/V5570/X/17/3187296
Flat 15, 40 Danbury Street, LONDON, N1 8JU

- The application reference P2017/2274/COL is dated 09/6/2017
 - The use for which a lawful development certificate is sought is: use in the layout of a studio flat, consisting of a lounge/bedroom, kitchen and bathroom
-

Appeal P: APP/V5570/X/17/3186387
Flat 16, 40 Danbury Street, LONDON, N1 8JU

- The application reference P2017/2275/COL is dated 09/06/2017
 - The use for which a lawful development certificate is sought is: use in the layout of a studio flat, consisting of a lounge/bedroom, kitchen and bathroom
-

Appeal Q: APP/V5570/X/17/3186370
Flat 17, 40 Danbury Street, LONDON, N1 8JU

- The application reference P2017/2248/COL is dated 08/06/2017
 - The use for which a lawful development certificate is sought is:; a studio flat in existing use and has been in the same layout for over four years with clear evidence to provide
-

Appeal R: APP/V5570/X/17/3186377
Flat 18, 40 Danbury Street, LONDON, N1 8JU

- The application reference P2017/2249/COL is dated 08/06/2017
 - The use for which a lawful development certificate is sought is: use in the layout of a studio flat, consisting of a lounge/bedroom, kitchen and bathroom
-

Appeal S: APP/V5570/X/17/3187300
Flat 22, 40 Danbury Street, LONDON, N1 8JU

- The application reference P2017/2276/COL is dated 09/06/2017
 - The use for which a lawful development certificate is sought is: use in the layout of a studio flat, consisting of a lounge/bedroom, kitchen and bathroom
-

Appeal T: APP/V5570/X/17/3187304
Flat 23, 40 Danbury Street, LONDON N1 8JU

- The application reference P2017/2363/COL is dated 13/06/2017
 - The use for which a lawful development certificate is sought is: use in the layout of a studio flat, consisting of a lounge/bedroom, kitchen and bathroom
-

Appeal U: APP/V5570/X/18/3195595
Flat 24, 40 Danbury Street, LONDON, N1 8JU

- The application reference P2017/2277/COL is dated 09/06/2017
 - The use for which a lawful development certificate is sought is: use of the site as a self-contained residential unit under Class C3 in excess of 4 years
-

Appeal V: APP/V5570/X/17/3187317
Flat 25, 40 Danbury Street, LONDON, N1 8JU

- The application reference 2364/COL is dated 13/06/2017
 - The use for which a lawful development certificate is sought is: use in the layout of a studio flat, consisting of a lounge/bedroom, kitchen and bathroom
-

Appeal W: APP/V5570/X/17/3186384
Flat 26, 40 Danbury Street, LONDON, N1 8JU

- The application reference P2017/2278/COL is dated 09/06/2017
 - The use for which a lawful development certificate is sought is: use in the layout of a studio flat, consisting of a lounge/bedroom, kitchen and bathroom
-

Appeal X: APP/V5570/X/17/3187316
Flat 27, 40 Danbury Street, LONDON, N1 8JU

- The application reference P20172279/COL is dated 09/06/2017
 - The use for which a lawful development certificate is sought is: use in the layout of a studio flat, consisting of a lounge/bedroom, kitchen and bathroom
-

Appeal Y: APP/V5570/X/17/3187323
Flat 28, 40 Danbury Street, LONDON, N1 8JU

- The application reference P2017/2280/COL is dated 09/06/2017
 - The use for which a lawful development certificate is sought is: use in the layout of a studio flat, consisting of a lounge/bedroom, kitchen and bathroom
-

Appeal Z: APP/V5570/X/17/3187307
Flat 29, 40 Danbury Street, LONDON, N1 6JU

- The application reference P2017/2357/COL is dated 13/06/2017
 - The use for which a lawful development certificate is sought is: use in the layout of a studio flat, consisting of a lounge/bedroom, kitchen and bathroom
-

Appeal AA: APP/V5570/X/17/3187312
Flat 30, 40 Danbury Street, LONDON, N1 8JU

- The application reference P2017/2281/COL is dated 09/06/2017
 - The use for which a lawful development certificate is sought is: use in the layout of a studio flat, consisting of a lounge/bedroom, kitchen and bathroom
-

Appeal BB: APP/V5570/X/17/3187320
Flat 32, 40 Danbury Street, LONDON, N1 8JU

- The application reference P2017/2251/COL is dated 08/06/2017
 - The use for which a lawful development certificate is sought is: use in the layout of a studio flat, consisting of a lounge/bedroom, kitchen and bathroom
-

Appeal CC: APP/V5570/X/17/3187326
Flat 33, 40 Danbury Street, LONDON, N1 8JU

- The application reference P2017/2282/COL is dated 09/06/2017
 - The use for which a lawful development certificate is sought is: use in the layout of a studio flat, consisting of a lounge/bedroom, kitchen and bathroom
-

Appeal DD: APP/V5570/X/17/3187315
Flat 35, 40 Danbury Street, LONDON, N1 8JU

- Application reference P2017/2253/COL is dated 08/06/2017
- The use for which a lawful development certificate is sought is: use in the layout of a studio flat, consisting of a lounge/bedroom, kitchen and bathroom

End of Schedule