

LDC Report		14/05/2010
Officer		Application Number
Anette de Klerk		2010/1154/P
Application Address		Drawing Numbers
Reids Buildings 92 Leather Lane London EC1N 7TT		Refer to decision notice
PO 3/4	Area Team Signature	Authorised Officer Signature
Proposal		
Certificate of lawfulness for existing use of building as 10 self contained residential units (Class C3)		
Recommendation: Refer to Draft Decision Notice		
Assessment		
<p>Site Description</p> <p>The application site comprises a four storey building with a mansard roof located on the eastern side of Leather Lane. The ground floor is in use as a coffee shop with the upper floors in residential use. The building is not listed but is located within the Hatton Gardens Conservation Area.</p> <p>Planning History</p> <p>9187/18/07/61: The carrying out of alterations to amalgamate Flats 5 and 6 Reids Buildings, 92 Leather Lane, E.C.1 so as to form one self contained residential unit. Granted 10/08/1961</p> <p>PSX0105373: Partial demolition of existing roof building and erection of mansard roof extension for the provision of 2 self-contained flats. Appeal (APP/X5210/A02/1096192) dismissed 07/12/2002.</p> <p>Proposal</p> <p>This application seeks to demonstrate the lawfulness of existing use of the 10 flats located on the upper floors of the building as self-contained units.</p> <p>Discussion:</p> <p>In terms of assessment the onus of proof in a lawful development certificate application lies with the applicant. The relevant test of the evidence on such matters is 'the balance of probability', the applicant is not required to discharge the stricter, criminal burden of proof, namely 'beyond all reasonable doubt'. The local planning authority are advised that if they have no evidence of their own, to contradict or otherwise make the applicant's version of events less than probable, there is no good reason to refuse the application, provided the applicant's evidence alone is sufficiently precise and unambiguous. The planning merits of the use are not relevant to the consideration of an application for a certificate of</p>		

lawfulness; purely legal issues are involved in determining an application.

The Applicant's Evidence:

The applicant has submitted the following documentation as part of their application:

- A site location plan outlining the boundary of the site.
- Floor plans showing the layout of the flats.
- Tenancy agreements as follows for the flats at No. 92 Leather Lane:

Flat 1:

- Mr Kevin Epsworth – dated 24/10/2005 – tenancy period from 21/10/2005 – 20/10/2006, signed.
- Mr Kevin Epsworth – dated 17/10/2006 – tenancy period from 20/10/2006 – 19/10/2007, signed.
- Mr Kevin Epsworth – dated 09/11/2007 – tenancy period from 19/10/2007 – 18/10/2008, signed.
- Mr Jamie Sol – dated 12/11/2007 – tenancy period from 30/11/2007 – 29/11/2008, signed.
- Mr Kevin Epsworth – dated 28/11/2008 – tenancy period from 19/10/2008 – 18/10/2009, signed.
- Mr Jamie Sol – dated 25/11/2008 – tenancy period from 30/11/2008 – 29/11/2009, signed.

The tenancy agreements for Flat no. 1 indicate that Mr Kevin Epsworth occupied the flat continuously from 21/10/2005 – 18/10/2009 for a period of four years. However, tenancy agreements with Mr Jamie Sol also indicate occupancy of Flat No. 1 from 30/11/2007 until 29/11/2009 overlapping with the occupancy of Mr Kevin Epsworth. This appears to be an error as the tenancy agreements below for Flat 1A indicate that Mr Sol occupied Flat no. 1A and not Flat 1.

Flat 1A:

- Mr Jaime Alberto Sol – dated 02/12/2005 – tenancy period from 02/12/2005 – 01/12/2006 – signed
- Mr Jamie Alberto Sol – dated 01/12/2006 – tenancy period from 01/12/2006 – 30/11/2007 – signed

The tenancy agreements for Flat. 1A indicate that Mr Sol occupied the Flat 1A from 02/12/2005 until 30/11/2007 for a period of two years. As discussed in the section under Flat 1 above, it appears that the tenancy agreements were incorrectly numbered and that the tenancy period of Mr Sol should include the period from 30/01/2007 until 29/11/2009 which would result in a continuous occupancy of four years for Flat 1A.

Flat 2:

- Mr Chet Pager – dated 25/10/2005 – tenancy period from 25/10/2005 – 24/10/2006 – signed
- Mr Chet Pager – dated 02/11/2006 – tenancy period from 24/10/2006 – 23/10/2007 – signed
- Mr Chet Pager – dated 07/11/2007 – tenancy period from 23/10/2007 – 22/10/2008 – signed

- Mr Chet Pager – dated 27/10/2008 – tenancy period from 23/10/2008 – 22/10/2009 – signed

The tenancy agreements for Flat 2 indicate a continuous occupancy for a period of four years.

Flat 3:

- Mr Alexander Swift – dated 07/04/2005 - tenancy period from 19/04/2005- 18/04/2006 – signed
- Mr Alexander Swift – dated 03/05/2006 – tenancy period 18/04/2006 – 17/04/2007 – signed
- Mr Jens Nystrom – dated 16/10/2006 – tenancy period from 15/10/2006 – 14/10/2007 – signed
- Mr G Hargie - dated 16/11/2007 – tenancy period from 16/11/2007 – 14/11/2008 – signed.
- Mr G Hargie – dated 16/11/2008 – tenancy period 16/11/2008 – 15/11/2009 – signed.

The tenancy agreements for Flat 3 indicate a continuous occupancy for a period of four years

Flat 4:

- Ms Sandra Dennis – dated 16/09/2005 - tenancy period from 16/09/2005 – 15/09/2006 – signed
- Ms Sandra Dennis – dated 18/09/2006 – tenancy period 15/09/2006 – 14/09/2007 – signed
- Mr Philip Gowers & Mrs Hajnal Gowers - dated 16/03/2007 – tenancy period from 19/03/2007 – 18/03/2008 – signed. Vacated 14/09/2007.
- Mr Isaac Purim – dated 18/09/2007 – tenancy period from 18/09/2007 – 17/09/2008 – signed. Vacated 29/04/2008.
- Mr Mathew John Edgley & Mrs Michelle Elaine Osbourne – dated 16/07/2008 – tenancy period 16/07/2008 – 15/07/2009 – signed.
- Mr Mathew John Edgley & Mrs Michelle Elaine Osbourne – dated 09/07/2009 – tenancy period 16/07/2009 – 15/07/2010 – signed.

Tenancy agreements for Flat 4 indicate a period of continuous occupation of four years.

Flat 5:

- Mr Robert Wood – dated 14/10/2005 - tenancy period from 14/10/2005 – 13/10/2006 – signed
- Mr Jesus Acosta-Ortiz – dated 26/05/2006 – tenancy period 26/05/2006 – 25/05/2007 – signed
- Mr Jesus Acosta-Ortiz – dated 27/04/2007 – tenancy period from 25/05/2007 – 24/05/2008 – signed. .
- Mr Jesus Acosta-Ortiz - dated 13/06/2008 – tenancy period from 25/05/2008 – 24/05/2009 – signed. .

- Mr Jesus Acosta-Ortiz – dated 01/06/2009 – tenancy period 25/05/2009 – 24/05/2010 – signed.

Tenancy agreements for Flat 5 indicate a period of continuous occupation of four years from 14/10/2005 until 24/05/2010.

Flat 6:

- Mr Iain Ward – dated 05/02/2007 - tenancy period from 29/11/2006 – 28/11/2007 – signed

The tenancy agreement only confirms a period of occupation of one year. The applicant has not submitted any supplementary evidence to prove the continuous occupation of Flat 6 for a period of four years.

Flat 7:

- Mr Andrew Campbell & Miss Zoe Fuller – dated 13/12/2007 – tenancy period 14/12/2007 – 13/12/2008– signed
- Mr Andrew Campbell & Miss Zoe Fuller – dated 08/12/2008 – tenancy period 15/12/2006 – 14/12/2007 – signed .
- Mr. Andrew Campbell & Miss Zoe Fuller – dated 04/02/2009 – tenancy period 14/12/2008 – 13/12/2009 - signed

The tenancy agreements indicate a period of continuous occupation of two years (14/12/2007 - 13/12/2009.) No supplementary evidence has been submitted to prove the occupation of four years.

Flat 8:

- Mr Arkadiusz Komorowski – dated 31/01/2007 – tenancy period 26/07/2006 – 25/07/2007– signed
- Mr Arkadiusz Komorowski – dated 10/07/2007 – tenancy period 25/07/2007 – 24/07/2008– signed
- Mr Arkadiusz Komorowski – dated 29/07/2008 – tenancy period 25/07/2008 – 24/07/2009 – signed
- Arkadiusz Komorowski – dated 04/08/2009 – tenancy period 25/07/2009 – 24/07/2010 signed. Vacated 02/10/2009.
- Mr. Ben Bruce & Mrs Kelly Bruce – dated 02/10/2009 – tenancy period 03/10/2009 – 02/10/2010 - signed

Tenancy agreements show that the flat has been occupied for a period of three years and ten months.

Flat 9:

- Miss Sofia Olofsson – dated 08/11/2006 – tenancy period 14/09/2006 – 13/09/2007– signed
- Miss Sofia Olofsson – dated 01/10/2007 – tenancy period 13/09/2007 – 12/09/2008– signed
- Miss Sofia Olofsson - dated 15/09/2009 – tenancy period 15/09/2009 – 14/09/2010–

signed

The tenancy agreement for Flat 9 indicates that Miss Olofsson occupied the flat from 14/09/2006 until 12/09/2008 and then again from 15/09/2009 until present. There appears to be a gap in occupation between 12/09/2008 until 15/09/2009 and as such occupation of a period of two years and another period of eight months have been demonstrated. No supplementary evidence has been submitted to prove the occupation of four years.

Assessment:

To prove the existing ten flats are lawful planning units, the evidence submitted with the applicant should prove that the existing ten flats have been laid out as shown on the submitted drawings for a period of four years.

As discussed above the tenancy agreements submitted with the application prove that only flat no's. 1, 1A, 2, 3, 4, 5 and 8 have been continuously occupied as self contained units for a period of four years. The tenancy agreements for flat no's 6, 7 and 9 are inconsistent and do not prove that use as self contained flats for a period of four years

The applicant has not submitted any supplementary evidence such as statutory declarations, utility bills or builders invoices to prove the lawful use of the property as shown on the submitted floorplans. The planning records do not provide any additional information regarding the lawful use of the flats.

Conclusion and Recommendation:

The evidence submitted is insufficient to prove that the ten flats as shown on the floorplans have been used as ten self contained flats for a continuous period of four years. It is recommended that the Certificate of Lawfulness is refused and an informative placed on the decision notice advising the applicant that a resubmission to prove that flat no's. 6, 7, 8 & 9 are lawful, would need evidence to be submitted to show that the flats have been self contained flats for a continuous period of 4 years..

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