

IAN TREHEARNE

Town Planning - Planning Law

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27 November 2013

Dear Sir

Mrs Matilda Ruis de Cazaldo 14 Templewood Avenue Planning Permission reg no 2010/4998/P Conversion of six flats to single family dwelling house class C3

Application under s73 Town and Country planning Act 1990 to implement permission 2010/4998/P without compliance with condition number 1 requiring development to start within three years of the date of the permission (i.e. by 7 February 2014)

The Planning Permission This planning permission was granted on 7 February 2011 subject to the standard condition (condition number 1) required by s91 of the Town and Country Planning Act 1990 that development shall be started within three years of the grant of permission. This means that development must be begun by 7 February 2014. (copy of permission attached)

S106 Agreement The planning permission was also granted subject to a s106 agreement (s requiring that Off Site Housing comprising four residential units should have been completed to the Council's satisfaction prior to the occupation of the accommodation permitted at Templewood Avenue. The Off Site Housing was constructed at 14-15 College Crescent, in the form of four flats and are occupied, and the Council confirmed that it was satisfied in this respect so that the agreement is discharged. This agreement is too large a file to attach in its entirety but key extracts are attached.

Why it has not been possible to start the development. The acquisition, construction and approval of 14-15 College Crescent took the whole of the time between February 2011 and July/August 2013, and it has not been possible to secure vacant possession in the meantime

of the flats at 14 Templewood Avenue, which are held on assured shorthold tenancies, so that a comfortable start can be made on the conversion under this permission.

At the same time a parallel but separate process has been under way seeking to secure permission for a basement development at the property, and my clients understandably do not wish to begin a conversion until this process has been worked through.

Permission sought Accordingly permission is now sought under s73 Town and Country planning Act 1990 to implement permission 2010/4998/P without compliance with condition number 1 requiring development to start within three years of the date of the permission (i.e. by 7 February 2014).

This application is able to be made because the time limit for implementation has not expired and the condition in s73(4) is not met. S73(4) provides that the '*...section does not apply if the previous planning permission was granted subject to a condition as to the time within which the development to which it related and that time has expired without the development having been begun.*'

It is suggested that a further three years of time would be appropriate in this case, and that the permission be reissued with appropriate new registration details and date, but otherwise with identical wording.

As the s106 agreement has been discharged there should be no need for a further agreement.

Since there is no additional floorspace there will be no question of a payment of Community Infrastructure Levy, and there are of course no transport issues that arise from the proposal.

Please get back to me if there are any queries, otherwise I look forward to receiving a further permission.

Yours faithfully



Ian Trehearne