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Neil McDonald
Planning Team Leader
Camden Council
5 St. Pancras Square,
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NIC 4AG

July 12th, 2017

Dear Neil,

Planning Permission 2010/6158/P – 57-59 Monmouth Street and 4 Ching Court

We are writing to you regarding the Planning Permission granted in 2011 for an Office to Residential conversion of 57-59 Monmouth Street and 4 Ching Court. There has recently been an application to renew the Listed Building consent for this change of use (2017/1261/L) which is yet to be determined. The CGCA and a number of other organisations and individual residents have objected to this application.

One of the points made in these responses was that the permission for change of use granted in 2011 has expired and that the applicant's statement in their listed building application that they have "consented flexible use" is **factually incorrect**. This is a material consideration for the listed building application. It also means that if you grant the listed building application and they proceed to implement the change of use they will be in breach of Planning Controls.

We have taken legal advice on this point and now also been in communication with the officers at DCLG responsible for the piece of legislation¹ from which the applicant derives the claim that they have permission. This has confirmed our view that the permission has expired. The purpose of this letter is to set out the detailed reasoning for this position.

The Decision Notice for 2010/6158/P grants a change of use from Class B1 to alternative uses either as Class C3 or B1. It also states that the development must be begun not later than the end of three years from the date of this permission, which was 15/3/2014.

The applicant's position is that under Class 3 Part V of the GPD Order he is able to switch between the alternative uses for a 10 year period. This is because the Order states that "*Development consisting of a change of use of a building or other land from a use permitted by planning permission granted on an application, to another use which that permission would have specifically authorised when it was granted.*" is permitted development provided that it takes place within 10 years from the grant. The applicant considers that, as they were granted an alternative C3 use in 2011, they are able to make the change until 2021.

We have queried this interpretation of the order with the DCLG and they have pointed out that this relies on the original permission granted in 2011 having been implemented. Otherwise the permission will have expired after three years as required by Section 91 of the Town and Country Planning Act 1990.

¹ Part 3, Class V of Schedule 2 of The Town And Country Planning (General Permitted Development) (England) Order 2015 No. 596

Covent Garden Community Association, continued...

The DCLG has also pointed out to us that the definition of when a development is implemented is given in section 56(4) of the Town and Country Planning Act 1990. This states that development is begun when

- a) *if the development consists of the carrying out of operations, at the time when those operations are begun;*
- b) *if the development consists of a change in use, at the time when the new use is instituted;*
- c) *if the development consists both of the carrying out of operations and of a change in use, at the earlier of the times mentioned in paragraphs (a) and (b).*

In the case of the buildings which are the subject of 2010/6158/P, none of these activities have occurred. The buildings have remained in office use and none of the changes to the building authorized by the permission have taken place. The TCPA does not regard the continuation of the existing use as "development".

Therefore the situation is as follows:

- The development has not begun within 3 years as required by Condition 1 on the Decision Notice and by Section 91 of the Town and Country Planning Act 1990.
- As the development has not begun then the planning permission 2010/6158/P has expired.
- As the permission has now expired the alternative use granted is no longer authorized.
- As there is no authorized alternative use, permitted development cannot take place under Class 3 Part V of the GPD Order

Hence neither the change of use to C3 nor the physical changes to the building to permit this are authorized by any valid planning permission. If they are carried out then the applicant would be in breach of Planning Controls.

The CGCA's view, confirmed by the information we have received from the DCLG and by our legal advisor, is that the applicant needs to **reapply** for planning permission for either a change to C3, or to C3 as an alternative use to B1. This would be in a different context than was previously the case in terms of the applicable policies, the economic environment and the revised listing to all of the buildings surrounding Ching Court and there is no guarantee that permission would be granted.

We would be grateful if you could review this letter and let us know whether you agree with our position. If you do not agree please let us know in what way you believe we are incorrect. If you do agree with our position please advise us what steps you will be taking to ensure that no development takes place without the appropriate permission.

We would like to point out that the applicant in this case, Shaftesbury plc, have been granted a number of applications for alternative uses in the Seven Dials area. We believe that most of these have not yet been implemented. The same argument about the time period for which the permission is valid applies to all of these other permissions and this is therefore an important test case.

We look forward to hearing from you

Yours sincerely,



Elizabeth Bax
Chair, Planning Subcommittee