

# Trinity Planning

## **Representation to Lawful Development Certificate (Existing) application reference 2018/4683/P: 3 Fitzroy Square, London W1T 5HG**

### **Submitted by Trinity Planning on behalf of Mr & Mrs G. Rhys Jones, 2 Fitzroy Square, London W1T 5HF**

#### **Introduction**

- 1.1 This representation follows the earlier November Trinity Planning representation submitted on behalf of my clients Mr. and Mrs Rhys Jones who reside at 2 Fitzroy Square which adjoins 3 Fitzroy Square, who strongly object to the Lawful Development Certificate (LDC) application.
- 1.2 It responds to the additional information since placed on the Council's website, dated 3/12/2018 and 4/12/2018 (5 items).
- 1.3 However, the first heading below revisits the situation relating to the enforcement notice.
- 1.4 This representation is additional to the November representation.

#### **The Enforcement Notice (EN) and Planning Contravention Notice (PCN)**

- 2.1 It is now understood that the PCN served on the 8 September 2015 followed not only the earlier site visit by the Council officer in July 2015, but also an enforcement case opened earlier still in June 2018 - concerning whether the works were authorised and/or took place post the planning permission expiry date.
- 2.2 It seems, then, the Council had concerns about unauthorised works by June 2018 or earlier, which then warranted the officer site visit in July 2018 which, in turn, failed to satisfy the Council's concerns who then served the PCN in September 2018.
- 2.3 That there is now a LDC application can only reflect the Council has not been convinced, over the intervening three years, that any works were undertaken prior to the planning permission expiry and/or were unauthorised, including by the 2015 exchanges in Appendix 3 of the Ashfords supporting statement.
- 2.4 The Trinity Planning representation of November demonstrated the failure of the LDC application to evidence that the planning permission works commenced before the expiry date.
- 2.5 Despite the benefit of the opportunity to address the reasons of objection raised in the November representation, the applicant has now failed to provide any further

evidence that rebuts or addresses those reasons to object. The additional material simply reinforces the conclusion that development commenced after the permission expiry date.

### **Contractor Letter (AJA)**

- 3.1 The letter is dated 3 December 2018, rather than using a source from the time the claimed works took place.
- 3.2 It remains extraordinary that there are no available receipts, invoices, schedules of work completed etc, dating from 2014/2015 (despite the applicant being aware of the suggestion that this should be provided). This would be the obvious information to have provided from the start.
- 3.3 The first paragraph of the letter refers to only attending 3 Fitzroy Square, and does not establish that any works were undertaken that related to the planning permission or were authorised. The contractor involvement may have related, at best, to inspecting the general condition of 3 Fitzroy Square in being able to cope with the structural impact of the works associated with the planning permission - but not to actual development commencement works.
- 3.4 The letter refers to only “investigative works” and trial pits over the 2014 and 2015 period as “preparatory works”. It may well have been that any such physical works took place after the planning permission expiry date in early 2015.
- 3.5 At the same time, “investigative works” do not constitute development commencement in any case.
- 3.6 Equally the second paragraph only claims attending the house, whilst “to begin works” is meaningless without evidencing what works were undertaken on 12 February 2015.
- 3.7 In response to the above failures, I turn to planning guidance regarding at what point development may be considered to have commenced. The guidance examples this as the digging of foundations and pouring of concrete, driving of piles and other substantive works.
- 3.8 Whatever works may have been undertaken they clearly did not reflect any of the above examples so cannot be considered to represent a start of the development.
- 3.9 Further, it can reasonably be concluded that no associated pipe laying occurred prior to the permission expiry date, since the contractor letter would have undoubtedly mentioned this if it had.
- 3.10 The photos provided in the Ashfords supporting statement have already been shown to offer no proof that pipes were laid at all, or that they were relevant to the permitted development, either before or after the permission expiry (Trinity Planning November representation paragraphs 4.1-4.9).
- 3.11 Accordingly, the second example mentioned in the planning guidance regarding development commencement refers to laying underground mains pipes to the foundations or part foundations of the development. The only conclusion that can be drawn is that this did not occur before the planning permission expiry date.

## **Plans and Section BB**

- 4.1 It is unclear what relevance the four drawings offer in establishing that any works (substantive or not) took place before the planning permission expiry date.
- 4.2 Three of the drawings are undated in any case, so they do not establish when, or if, any of the identified works took place, nor if they related to the unconvincing photographs included in the applicant statement.
- 4.3 Drawing D133388 SL[2]10 revP2 is actually a “preliminary” drawing dated 2010 so well before the planning permission of 2012. Along with drawing LKB09 100 rev A they appear meaningless as relevant evidence.
- 4.4 It is wholly remiss and unacceptable that the applicant has failed to provide an explanatory statement to establish the relevance of the undated drawings - this would have been easily done. The drawings variously refer only to “preliminary” and “investigation works”.
- 4.5 At best the plan drawings, whenever they were prepared, can only be interpreted as reflecting intent to undertake preliminary investigation works. They are not linked to any time period or schedule of works completed so remain irrelevant to establishing if the works took place prior to the permission expiry.
- 4.6 The three plans also fail to demonstrate the depths of any of the works.
- 4.7 The Existing Section B-B drawing is also undated. The key refers to “excavation works carried out” though it is not stated when (nor is it clear where it is located within the basement).
- 4.8 Regardless, the Section demonstrates that only a very shallow excavation of some 30 cm. was undertaken (again it is not known whether before or after the expiry date).
- 4.9 Such a shallow excavation could only have been investigative, and clearly would not have constituted the commencement of development (again referring to the examples included in the planning guidance).

## **Conclusion**

- 5.1 The five additional items on the Council website (dated the 3 and 4 December) provide no evidence to support the claim that the commencement of development started before the expiry date of the planning permission, nor that any works whenever undertaken were authorised.
- 5.2 This additional information is presumably meant to prop up the original Ashfords supporting statement which has been shown to be inadequate - but completely fails to do so.
- 5.3 Accordingly, the LDC (Existing) application should be refused.

*Malcolm E D Inkster B.Sc.*

*Trinity Planning*

*December 2018*