

Section '3' - Applications recommended for PERMISSION, APPROVAL or CONSENT

Application No : 13/01251/ELUD

Ward:
Bromley Town

Address : The Ravensbourne School Hayes Lane
Hayes Bromley BR2 9EH

OS Grid Ref: E: 540682 N: 168046

Applicant : Mrs Cathy Whiting

Objections : YES

Description of Development:

Retention of 2 screens adjacent to hard surfaced sports pitch (CERTIFICATE OF LAWFULNESS FOR AN EXISTING DEVELOPMENT).

Key designations:

Biggin Hill Safeguarding Birds
Biggin Hill Safeguarding Area
London City Airport Safeguarding
London City Airport Safeguarding Birds
Urban Open Space

Proposal

This Certificate of Lawfulness application concerns the retention of 2 screens affixed by means of cable ties to the outside [on 2 sides] of an existing wire mesh fence. The fence surrounds a hard surfaced sports pitch measuring approx. 24m x 39m within the school grounds. The fence extends up to approximately 3.1m in height. The screens are blue in colour and made from a tarpaulin type material and have been introduced by the school in order to provide privacy for pupils engaged in sport, to help them focus on the activity, and also to act as a windbreak.

The Certificate of Lawfulness application has been made having regard to Section 55 of the Town and Country Planning Act 1990 (as amended). It is the applicant's contention that the attachment of the screens to the existing fence does not involve a material change of use of any building or other land and does not involve alterations that would affect the external appearance of a building, being affixed solely to an existing means of enclosure.

Reference is also drawn to the definition of a building set out in section 336 (1) of the Act which includes any structure or erection of any part of a building as so defined. It is stated that there is nothing within the definition to establish that the

screening would amount to development and on this basis it is requested that the certificate of lawfulness be granted.

Location

The site is located towards the eastern end of Hayes Lane within the grounds of Ravensbourne School. The hard surfaced sports pitch is located behind existing buildings and oblique views of the fencing and screens are possible from Hayes Lane. Views are also possible from residential properties with gardens backing onto the site including those in Cromwell Close and Cromwell Avenue, although these are a minimum of around 150m away with playing fields in between.

Comments from Local Residents

Nearby owners/occupiers were notified of the application and 2 representations were received including Ravensbourne Residents Association which can be summarised as follows:

- why is the issue of advertising not being addressed in the Certificate of lawfulness application
- the screened fence is a building and therefore development
- the clear display of the words "The Ravensbourne School" which is visible from several points including a public footpath should mean that the screen should be subject to the control of advertisement regulations

Comments from Consultees

Legal advice is that the screens do not amount to development.

Planning History

An enforcement complaint was received in November 2012 regarding the retention of 2 screens adjacent to the sports pitch at Ravensbourne School. The matter was due to be reported to Plans Sub Committee on 21st March 2013 in a contravention report, with a recommendation that no further action be taken. However, it was withdrawn from the agenda in order to suggest to the applicant that a certificate of lawfulness be submitted to establish formally whether the screens constitute development which requires planning permission. The applicant responded by submission of this current application.

Planning Considerations

The sole consideration for this application is for the Council to consider whether the screens require planning permission. In this regard it is necessary to consider firstly whether they constitute development and if they do, then whether this is development which requires planning permission.

Residents have raised the issue of whether the screens constitute an advertisement. This point cannot be considered as part of a certificate of lawfulness application as the relevant legislation for advertisements is the

Advertisement Regulations 2007 and not the Town and Country Planning Act under which a certificate of lawfulness is considered. Since there is no equivalent of a certificate of lawfulness in relation to advertisements, this matter will be addressed separately.

Section 55 of the Town and Country Planning Act 1990 (as amended) describes the meaning of "development" as follows:

"(1)Subject to the following provisions of this section, in this Act, except where the context otherwise requires, "development," means the carrying out of building, engineering, mining or other operations in, on, over or under land, or the making of any material change in the use of any buildings or other land."

Conclusions

The attaching of the screens to the fence by means of cable ties is not a building, engineering or mining operation, nor a material change of use. It is left therefore to consider whether the screens constitute "other operations". A similar case involved hanging sheets on the sides of an existing awning which, despite its effect on the external appearance of the building in question, was held not to involve development and was judged to be beyond planning control. As there is no clear definition of "other operations" it is helpful to consider factors that would normally indicate whether something constitutes development. These would include size, degree of permanence and method of attachment.

In this instance the screens are simply attached to the existing structure (fencing) and do not add to the physical size of the structure. They can be readily moved or removed and therefore do not have any significant degree of permanence.

This application seeks the Council's formal decision as to whether the screens are lawful. On the basis of the assessment above, it is concluded that the screens are not development as defined in Section 55 of the Town and Country Planning Act 1990 (as amended) and therefore planning permission cannot be required for their retention. It is recommended that a certificate of lawfulness be granted.

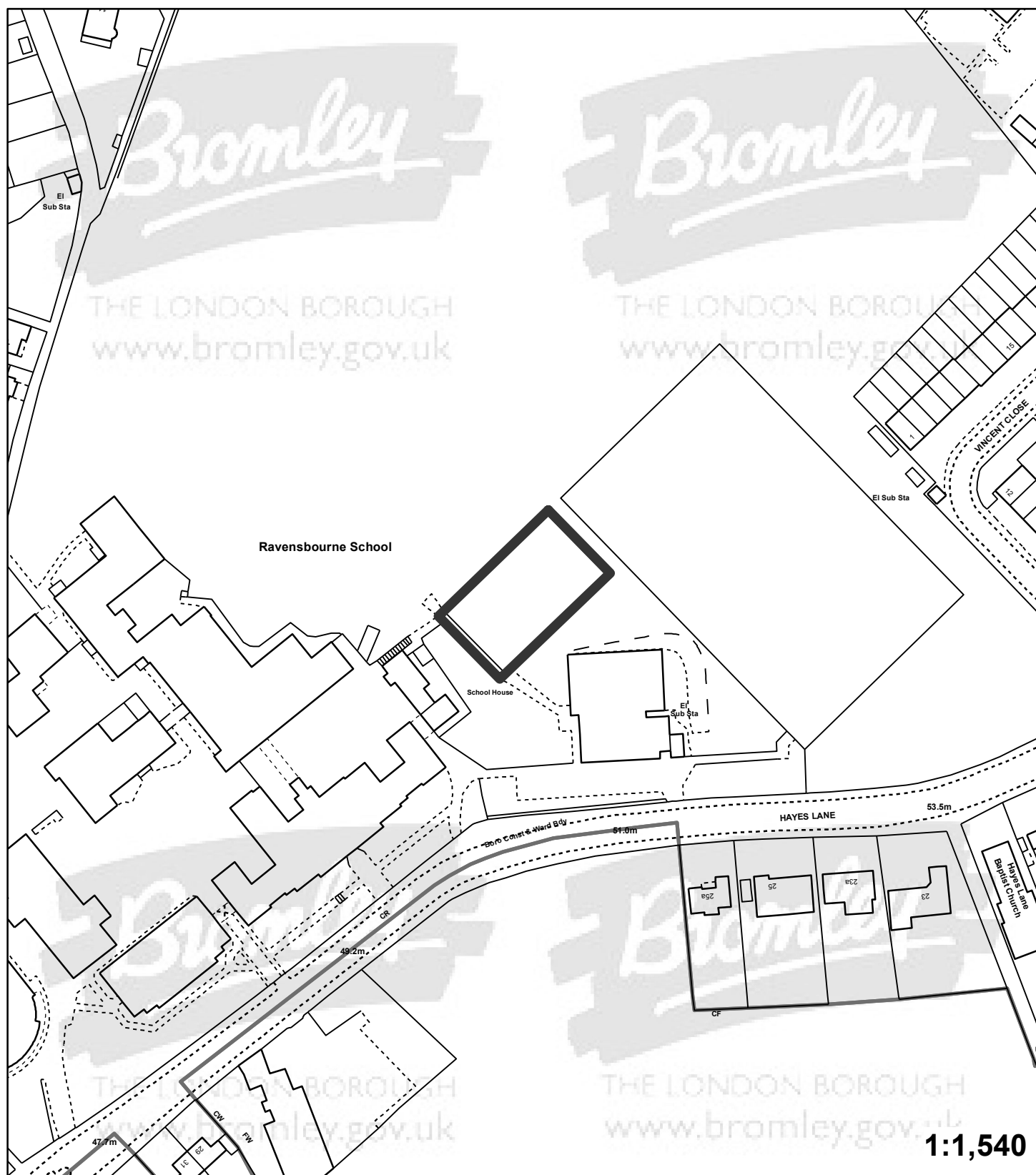
Background papers referred to during production of this report comprise all correspondence on file ref. 13/01251, excluding exempt information.

RECOMMENDATION: EXISTING USE/DEVELOPMENT IS LAWFUL

Application:13/01251/ELUD

Address: The Ravensbourne School Hayes Lane Hayes Bromley BR2 9EH

Proposal: Retention of 2 screens adjacent to hard surfaced sports pitch (CERTIFICATE OF LAWFULNESS FOR AN EXISTING DEVELOPMENT).



"This plan is provided to identify the location of the site and should not be used to identify the extent of the application site"

© Crown copyright and database rights 2013. Ordnance Survey 100017661.