

<b>Committee Date</b>	10 <sup>th</sup> June 2021	
<b>Address</b>	Y Buildings Bromley Civic Centre Stockwell Close Bromley	
<b>Application Number</b>	21/02042/ELUD	<b>Officer</b> - Russell Penn
<b>Ward</b>	Bromley Town	
<b>Proposal</b>	The use of the "Y" Buildings as offices for the carrying out of administrative functions (Use Class E(g)(i)). LAWFUL DEVELOPMENT CERTIFICATE (EXISTING)	
<b>Applicant</b>	<b>Agent</b>	
Moon Y Limited	Charles Rose	
6 Duke Street St James' London SW1Y 6BN	2nd Floor West Wing 40-41 Pall Mall London SW1Y 5JG	
<b>Reason for referral to committee</b>	Outside Delegated Powers	<b>Councillor call in</b>  No

<b>RECOMMENDATION</b>	Refusal
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<p>KEY DESIGNATIONS</p> <p>Areas of Archaeological Significance  Biggin Hill Safeguarding Area  Bromley Town Centre Area  Bromley Town Centre Area Buffer 200m  London City Airport Safeguarding  Open Space Deficiency  Sites of Interest for Nat. Conservation  Smoke Control SCA 13  Smoke Control SCA 12  Urban Open Space</p>
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<b>Land use Details</b>		
	Use Class or Use description	Floor space (GIA SQM)
Existing	Sui generis	n/a
Proposed	Sui generis	n/a

<b>Representation summary</b>	Letters sent to adjoining owners/occupiers	
Total number of responses	4	
Number in support	0	
Number of objections	4	

## **1. SUMMARY OF KEY REASONS FOR RECOMMENDATION**

- 1.1 On balance it is considered that the buildings have been used as part of the wider Civic Centre site (which is an overall '*sui generis*' use) since the Council purchased the site in the 1980s as opposed to being used as standalone offices.

## **2. LOCATION**

- 2.1 The application site is located at the south west corner of Bromley Civic Centre site, with a vehicular and pedestrian access onto Rafford Way. The site forms part of the Civic Centre municipal complex which, in addition to office accommodation for Bromley Council workers, provides amongst other facilities Committee rooms, the Council Chamber and the Great Hall and includes public parkland.



### 3. PROPOSAL

- 3.1 The application is a certificate of lawfulness for an existing use for “*The use of the "Y" Buildings as offices for the carrying out of administrative functions (Use Class E(g)(i))*” (Class (g)(i) is the equivalent of the former Class B1(a) office use).
- 3.2 The basis of the application is that this use commenced more than 10 years prior to the date of the application and the Y Buildings are within their own separate planning unit.

### 4. RELEVANT PLANNING HISTORY

WK362430 - Granted 27/08/1963  
Two halls of residence.

19/79/153 - Granted 17/09/1979  
Stockwell College of Education, Rochester Avenue Bromley: change of use from College of Education to Civic Offices and use by the public of the hall and gymnasium

02/04011/DEEM3 - Approved 17/01/2003  
Single storey extension to Joseph Lancaster Block

05/02410/DEEM3 - Approved 12/12/2005  
Additional hard standing and car parking to rear of Anne Springman hall and to front of Joseph Lancaster hall with low level external lighting

19/03228/ELUD - Withdrawn 18/11/2020  
Use as B1(a) offices Certificate of Lawfulness for and existing use

20/01327/RESPA - Refuse Prior Approval 09/06/2020

Change of use of Class B1(a) office to Class C3 Residential to form 120 residential units. (56 day application for prior approval in respect of transport and highways, contamination, flooding risks and noise under Class O Part 3 of the GPDO 2015)

20/02665/RESPA - Refuse Prior Approval 21/09/2020

Change of use of Class B1(a) office to Class C3 Residential to form 73 residential units. (56 day application for prior approval in respect of transport and highways, contamination, flooding risks and noise under Class O Part 3 of the GPDO 2015)

4.2 Plans of the buildings can be seen in the application documents.

## **5. CONSULTATION SUMMARY**

### **A) Statutory**

5.1 No statutory consultations were carried out.

### **B) Local Groups**

5.2 No representations from local groups were received

### **C) Adjoining Occupiers**

5.3 A total of 5 representations were received from nearby residents which can be summarised as follows:

5.4 Three are not relevant to the determination of this LDC application as they raise issues of planning merits including objecting to the potential proposals for the site and access to the public park, and in one case covenants.

5.5 One representation confirms that the Y buildings were in use by the Council along with other curtilage buildings, since at least 1994 until 2012, when they were vacated.

5.6 The final representation from a local resident of over 20 years expresses the view that the buildings were sui generis and includes mention of the public access area of the former housing use in Joseph Lancaster building, the fact that the associated car parking was used by staff on the entire site and not just the Y Buildings, confirmation that staff used facilities across the site including access points and the view that the buildings were not independently used from main Council functions.

## **6. POLICIES AND GUIDANCE**

6.1 This lawful development certificate does not fall to be considered on its planning merits but on the basis of facts as to whether the use specified is lawful.

## **7. ASSESSMENT**

7.1 This application seeks to demonstrate that the 'Y Buildings' have been in continuous administrative office use (former Planning Use Class B1(a) now Class

E(g)(ii) from 1982 until 2012 when they were vacated. There has been no active use since 2012.

- 7.2 In order to come to a conclusion in a planning context as to whether the Y Buildings do fall within the Use Class claimed it is necessary to establish their functional relationship with the remainder of the Civic Centre site.
- 7.3 The applicant's case provides information on the site and surrounding area, the specific layout of the buildings, including descriptions and photographs. The application seeks to demonstrate that the use of the buildings was to a sufficient degree separate from the wider Civic Centre site so as to be in its own office Use Class and planning unit.
- 7.4 The buildings which were originally constructed as halls of residence for the teacher training college which occupied the site prior to the Council are generally laid out as offices with the exception of Joseph Lancaster Hall which includes a reception, visitor waiting area and interview rooms at ground floor level previously used by the Council's housing and social care team.
- 7.5 There is car parking around the buildings which has been used by staff working across the Civic Centre site and has not been the subject of any restrictive conditions governing its use.
- 7.6 There are numerous references made to the use of the word office in planning and other documents in reference to the Y Buildings, however the use of this word in the contexts provided does not preclude the offices being a component of another use. In a similar way the Great Hall would be described as a public hall, but in this circumstance, it is also part of the wider Civic Centre site and not a planning unit by itself.
- 7.7 The Y Buildings were used for some distinct functions of the Council (i.e. specific departments) and to some degree they were self-contained, however the uses were all part of the Council's overall function and those occupying the buildings made use of facilities on the remainder of the site, including some parking, communal facilities such as the canteen and meeting rooms.
- 7.8 A key case to consider is the Court of Appeal judgment of *London Residuary Body v Secretary of State for the Environment* [1989] concerning County Hall in London which was subject of a similar debate as in this case.
- 7.9 In that appeal case this point turned on a narrow issue, namely that the inspector had referred to there being a requirement that offices had to be "commercial" in order to come within the office use class. The three Lord Justices of Appeal then went on to give guidance as to how the matter should be approached more widely. They each give different reasoning:
- 7.10 Slade LJ essentially identified "special features" to take into account when holding that the buildings were not offices:

- (a) the presence of a debating chamber with voting lobbies, press gallery “and all the paraphernalia of party politics,” a characteristic which “permeated the Committee rooms”;
- (b) the significant degree of public involvement in and public access to the buildings;
- (c) the use made of parts of the buildings for public meetings of voluntary and local organizations;
- (d) the characteristics of public debate and decision making, administering services, responding to queries from the public, together with a range of other public and ceremonial activities.”

- 7.11 Lloyd LJ rejected the wider use of the term “administration” which might include even the Royal Courts of Justice. He noted that the GLC County Hall building contained 76,746 m sq. of office use and 5,151 m sq. of other on office use. He found that the primary use was as offices but then concluded that the use overall was a composite or mixed with other uses doing so with no express reliance on “special uses.”
- 7.12 Stoker LJ took the view that the offices were all ancillary or incidental to the primary purpose of local government and without local government decision making, the offices would not be there. Hence the use could not be office use.
- 7.13 In applying the “special features” approach one needs to look at the entire planning unit, not merely the “Y” Buildings. Applying these factors in the present case the Civic Centre now has a debating chamber, rooms for political parties, press access and access at various points to the public and a register office for the holding of marriages. Different parts of the Civic Centre are also used for public meetings of some external organisations. The public had access to part of the “Y Buildings” when they still last operated as part of the housing / social care department.
- 7.14 Although it is possible to conclude that the Y Buildings were used separately from the remainder of the site perhaps more so than other areas of the Civic Centre site, the above would appear to lead to a stronger conclusion that the Civic Centre as a whole has a sufficient degree of public function which would render it a *sui generis* use.
- 7.15 The applicant makes reference to the caselaw of *Burdle* which is related to how it is possible to identify a planning unit. *Burdle* established that “*the unit of occupation is the appropriate planning unit to consider, until or unless a smaller unit is identified which is in separate use, both physically and functionally.*” The applicant claims the Y Buildings have operated as a separate planning unit from the remainder of the Civic Centre site, however on balance it is not considered that physically and functionally this has been the case based on the information above.
- 7.16 Reference is made by the applicant to recent permission 20/01789 which relates to another building within the Civic Centre site which was granted permission for Class B1/D1 use, however this is an express grant of planning permission and thus is not comparable to the current application.

## **8. CONCLUSION**

- 8.1 Whilst there is some evidence which could point to a separate Class B1/Class E(g)(i) use for the 'Y Buildings', including the 1979 permission for use of the site as offices, on balance it is not considered sufficient to warrant granting this certificate, as the most persuasive evidence is that the Y Buildings were used as part of the overall Civic Centre use, which is a '*sui generis*' use comprising a number of different components such as receptions, public halls, offices etc which are found at a Civic Centre site which was operated as a single planning entity.

### **RECOMMENDATION:**

#### **REFUSE TO GRANT CERTIFICATE**

**On the balance of probabilities, the 'Y Buildings' have not been in Class E(g)(i) use for the 10 years preceding the date of this application**