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8 June 2021

Assistant Director of Planning and Building Control
London Borough of Bromley
Stockwell Close
Bromley
BR1 3UH

FAO: Tim Horsman

Dear Sir/Madam

'Y-BUILDINGS', RAFFORD WAY, BROMLEY, BR1 3UH

Application ref 21/01985/RESPA: 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, noise impacts, natural light to habitable rooms under Class O Part 3 of the GPDO)

Supplementary submission by applicant

Background

1. We understand that the above application for prior approval is to be considered by the London Borough of Bromley's Plans Sub-Committee on 10 June 2021.
2. We understand that officers have recommended that the application be refused and have done so on two grounds. We respectfully disagree with those proposed reasons for refusal and explain why below, before concluding that prior approval should be granted.
3. We also understand that in considering this application for prior approval, officers have declined to come to a view on whether the Y-buildings were in use as an office on the relevant day, despite being obliged to do so in an application such as this. Instead, officers have indicated that they will rely on the outcome of an application for a lawful

development certificate (LDC), which is to be considered at the same meeting of the Plans Sub-Committee.

4. As things stand, the prior approval application is to be considered by the Plans Sub-Committee before the LDC application. Logically, the LDC application needs to be considered before the prior approval application, as a decision on the latter relies on a decision on the former.
5. That being the case, we urge officers to request that the Plans Sub-Committee considers the lawful development certificate before it considers the prior approval application.

First recommended reason for refusal

6. The first recommended reason for refusal is that the Y-buildings fall within the curtilage of a listed building, namely the Old Palace. We disagree.
7. As we explained in the planning statement submitted in support of the application:
 - Whether a building falls within the 'curtilage' of another building is a matter of judgment (and in this case it is Members of the Plans Sub-Committee who must make that judgment)
 - In a recent Court of Appeal case (Blackbushe Airport Ltd v Hampshire County Council, R (on the application of) & Ors [2021] EWCA Civ 398), Lady Justice Andrews explained that 'the concept of curtilage is most clearly explained' in the Court of Appeal case Methuen-Campbell v Walters [1979] 2 QB 525
 - In the Methuen-Campbell case, Lord Justice Buckley explained that the test of whether a piece of land lies within the curtilage of a building is whether it is:

so intimately connected with [the building] as to lead to the conclusion that the former forms part and parcel of the latter

8. The questions for Members are, therefore:
 - Whether the land on which the Y-buildings sit is 'intimately connected' with the Old Palace
 - If it is 'intimately connected', whether that connection is sufficiently intimate that it forms 'part and parcel' of the Old Palace
9. Whilst we readily accept that the Old Palace has a curtilage, our firm view is that it does not extend to include the Y-buildings, as there is no 'intimate connection' between the former and the latter.
10. That is evident in two ways. First, the Old Palace and Y-buildings are of entirely different architectural styles with, as officers put it in their report, 'differing architectural language'. Second, there is a physical separation between the Old Palace and the Y-buildings, with an established line of trees between the former and the latter. That line of trees is far more than 'random clumps of trees' as officers put it in their report.

11. Given the absence of an 'intimate connection' between the Old Palace and the Y-buildings, the only reasonable conclusion to draw is that the Y-buildings do not fall within the curtilage of a listed building. That cannot, therefore, form a reason for refusal of this application.

Second recommended reason for refusal

12. The second recommended reason for refusal is that some of the flats within the proposed development would not comply with the nationally described space standards.
13. Officers' concern seems to be that some of the bedrooms in the one-bedroom flats intended for occupation by one person exceed the standard for a double/twin bedroom. That would, they indicate, allow two people to live in the flat, despite the flat falling short of the overall minimum space standard for two-person occupancy of a one-bedroom flat.
14. To address this concern, we have revised the proposed layout plans so that the bedrooms in the one-bedroom flats intended for occupation by one person no longer meet or exceed the standard for a double/twin bedroom. Instead, the bedrooms in those flats meet the standard for a single bedroom.
15. The revised plans are enclosed and we would be grateful if officers would substitute the proposed layout plans submitted previously with the revised proposed layout plans. We trust that the revised plans will address officers' concerns.

Conclusions

16. As we explain above, we think it essential that the application for a lawful development certificate is considered at the Plans Sub-Committee on 10 June 2021 before the application for prior approval.
17. If the lawful development certificate application is then approved, and assuming Members are content that officers' concerns about space standards have been addressed, the only issue to be considered by Members in their consideration of the prior approval application will be that of curtilage.
18. For the reasons set out above, our view is that the Y-buildings do not fall within the curtilage of the Old Palace and, therefore, prior approval should be granted.
19. We trust that members of the Plans Sub-Committee will be provided with a copy of this letter in advance of the meeting of the Sub-Committee.

Yours faithfully

SAV Group

cc Russell Penn, London Borough of Bromley