

Lemon Hall
Church Street
Hugh Town
TR21 0JT

18th June 2014

Dear Mrs Mompoloki,

Well Cross Yard P/14/026 and P/14/027

Please find enclosed our representations on the latest Cornwall Rural Housing Association application to remove several planning conditions at Well Cross Yard. All of these conditions were put in place by the planning authority to protect the amenity and setting of our listed property. We write to object to this application to remove them.

The conditions that the planning authority attached to the planning permission granted in April have good planning reasons for being there. They were sensitively and sensibly written, to enable the development of Well Cross Yard into housing, while minimising the impact that introducing these new homes in close proximity to existing houses would otherwise have.

The conditions were put in place following consultation with the applicant and the affected neighbours, including us. The planning authority took the time to visit us and see the impact that the proposal would have on our main living spaces and garden. It was made clear to us during this meeting that there would be further dialogue with Cornwall Rural Housing Association before the conditions were to be finalised. As such, we feel the planning department should be commended for going beyond what is required of them, in order to help Cornwall Rural Housing Association deliver an acceptable scheme.

At the March planning meeting the committee delegated the detailing of the planning conditions to the Head of Planning and the Chairman and Vice-Chairman. As such, the conditions have been subject to the scrutiny of the highest level of the council and planning authority.

Objectively, none of the conditions under consideration are costly to implement or unreasonable for the applicant, none of them can be seen to place practical barriers in the way of the scheme, and CRHA has not given good reasons for their removal.

CRHA also included, within this application, unfounded and untrue allegations about us as neighbours, (claiming that we have failed to engage with the party wall process and carried out unauthorised tree-work) and about the Council's

engagement and handling of their application. These are antagonistic and irrelevant to the planning conditions in question. It should be noted that CRHA has presented 7 different sets of drawings to the planning authority and applied for planning permission five times for Well Cross Yard. The burden that this places on the planning authority and on neighbours, in responding to this continuous and seemingly never-ending series of applications is unacceptable and is tantamount to harassment.

We ask that the council does not grant approval to change the conditions that the planning authority determined necessary in April. Instead, it should be made clear to Cornwall Rural Housing Association that their efforts need to be put into delivering the affordable housing for which they have permission and funding, rather than lodging vexatious and antagonistic planning applications, such as this one.

Yours sincerely,

Peter and Clare Huxley

Condition 5 Planning Permission & Condition 4 LBC :

Prior to the commencement of any works to the boundary wall of Lemon Hall, details of the treatment of this boundary wall and any works to the gable end wall resulting from the Party Wall Act and its procedures shall be submitted to and agreed in writing with the Local Planning Authority. The development shall thereafter proceed in strict accordance with the approved scheme unless otherwise agreed in writing by the Local Planning Authority.

Reason: For the avoidance of doubt and to protect and safeguard the boundary wall in the interests of the character and appearance of the Listed Building.

Please state why you wish the condition(s) to be removed or changed:

Relating to the boundary wall at Lemon Hall and the failure of the adjoining neighbours to engage with the Party Wall process means that it is unreasonable to be made a pre commencement condition. We acknowledge that the wall is part of the Listed building Curtilage however the significance of this wall is minor and not specifically mentioned within the building's listing.

It is common for planning permission to be granted subject to a pre-commencement condition that requires final details of the scheme to be provided to the planning authority. This type of condition is used where the details given earlier in the planning process are not comprehensive or subject to change and where it is important to avoid any doubt about the development that is proposed.

Permission for Well Cross Yard was granted based on inaccurate survey drawings, which did not reflect the existing wall or its construction, and the proposed work to this wall and the gable end has still not been finalised. Because this work is still subject to design changes it would be premature to remove this condition.

The need for this further information on the wall treatment was set out in the planning consultant's report that was presented to the Council dated 4 March 2014 (para 5.2).

The only logical purpose in applying to remove this condition would be if the final proposal would not meet with the immediate approval of the planning authority. On this basis, it is all the more important to leave the condition in place so that the planning authority is able to carry out its role.

Leaving this condition in place also provides a mechanism for minor changes to be made to the work in scope without the need for a further round of planning, which is to the advantage of the applicant.

Removing this condition would set the precedent that it becomes acceptable to avoid providing the planning authority with the pre-commencement information that was determined necessary at the time of granting permission without providing any good reason.

Whilst not a planning consideration, and not a reason to remove a planning condition, the Council should be aware that Lemon Hall has fully engaged with the party wall process. From the outset, we have complied with the requirements and timescales set out by the Act. We have gone out of our way to be helpful to their surveyor at several points in the process and so it is entirely wrong for the applicant to suggest we have failed to engage.

The applicant has not yet prepared a draft party wall award for consideration by the party wall surveyor and they are still investigating the structural implications of their proposed works on the boundary wall and the gable end to which this condition, and the planning consultant's comment relate.

As a point of fact, the curtilage wall is specifically mentioned as a subsidiary feature in the listing of Lemon Hall.

(<http://www.britishlistedbuildings.co.uk/en-62489-lemon-hall-and-attached-walls-and-railing>)

Condition 9

The roof-lights hereby permitted shall be of a conservation style and sit flush to the roof covering with those on the south elevation being permanently obscure glazed and non opening with the precise details of the obscure glazing to be agreed in writing with the Local Planning Authority prior to the occupation of the dwellings. The agreed details for the obscured glazing of the roof lights shall be implemented in strict accordance with the details as agreed.

Reason: To protect the character and appearance of the building and Conservation Area in accordance with Policies 1 and 2 of the Local Plan and to protect the residential amenities of the neighbouring occupants.

Please state why you wish the condition(s) to be removed or changed:

The requirements for the roof lights to be fixed will impair the quality of the internal environment and therefore the health and wellbeing of its occupants the original planning consent had unrestricted opening roof windows within the scheme and an open courtyard.

The proximity of the windows in the new dwellings to Lemon Hall is less than half of the minimum distance specified as acceptable by the Isles of Scilly design guide.

To mitigate the loss of privacy that would arise between living spaces, all of the designs have included permanently obscured glazing on the ground floor skylights to the South. Given that with successive proposals, the number of skylights on this roof has increased from 2 to 6, it is imperative that the planning requirement for permanently obscured glazing remains and is not removed or weakened.

It is important that the planning authority receives and agrees the detail of this obscured glazing as it is our understanding that the applicant has been keen to use one-way film rather than obscured glazing, and this would not achieve two-way privacy and that would not be appropriate in a conservation area.

As regards the condition that the skylights should be fixed and non-opening, this was a condition that we feel is important and the planning consultant previously supported as a condition. If the skylights can be opened, there will be an unacceptable loss of privacy as the obscured glass will no longer be effective and noise transfer would become a problem.

The reason presented by the applicant for removing this condition is not valid. There are no demonstrable health and wellbeing issues from having skylights that do not open in this position and it would not significantly impair the internal environment of the dwellings for if the roof-lights are fixed.

The building would satisfy all building regulations even without any roof-lights on the South face. There is adequate ventilation to all rooms and the design incorporates full height French Windows on the North wall and the living area kitchens and bathrooms will require mechanical ventilation anyway.

One of the designs that the applicant previously proposed included no opening windows and relied only on mechanical ventilation.

Condition 17

The existing tree on and adjacent to the site boundary, shown on the plan number 5484 S10g and dated 10th April 2014 attached shall be retained and protected to the satisfaction of the Local Planning Authority for the duration of the development and shall not be wilfully damaged or destroyed, uprooted, felled, lopped or topped during that period without the previous written consent of the Local Planning Authority. Any trees removed without such consent or dying or being severely damaged or becoming seriously diseased during the period shall be replaced with trees of such size and species and must be agreed with the Local Planning Authority.

Reason: To safeguard the appearance and character of the area

Please state why you wish the condition(s) to be removed or changed:

This condition relates to a tree which falls outside of our site boundaries and therefore not within our control, the tree shows signs of being heavily pruned by the existing owners. We request this condition is removed.

Preserving the tree is a relevant planning matter, whereas its ownership and its location immediately outside the site do not affect its protected status.

The Council may reasonably conclude that the applicant intends to carry out works that endanger the health of this tree, because otherwise, there would be no purpose in applying for this condition to be removed.

Removing this condition would effectively grant the applicant permission to damage the tree. This would be at odds with the statutory responsibility of the Council and Planning Authority to protect this tree, which is in a conservation areas as if it had a tree preservation order on it.

We ask that the council does not remove this condition and we request (again) that a tree protection plan is formally agreed with the applicant to ensure the tree comes to no harm.

The need for a tree survey was identified in the planning consultant's report dated 4 March 2014. (Para 5.4)

We would welcome a visit from the Tree protection officer to discuss measures that are appropriate to safeguard this tree.

Contrary to the claim of the applicant, no tree work has been carried out by the existing owners of Lemon Hall, or in recent years because the house has been unoccupied. In February we reported that the applicant's contractors had lopped the tree and can supply photos taken before and after they did this.

Condition 18

The gate located between the two dwellings hereby approved shall remain locked at all times unless in use and shall only be used for access in connection with the maintenance and repair of the buildings, including the cleaning of the roof-lights on the Southern elevation of the dwellings.

Reason: To protect the residential amenities of neighbouring occupants.

Please state why you wish the condition(s) to be removed or changed:

This condition is both unreasonable and unenforceable it is not clear how it protects the residential amenities of the neighbouring residents. We request this condition is removed.

The latest proposal introduced an access corridor running North South through the middle of the building. This is aligned with our kitchen window and the middle of our back garden. The architect told us that this is in place for maintenance purposes only. The incorporation of a gate that remains locked except when accessed for maintenance achieves two planning objectives:

The gate ensures visual privacy between the entrance area of the new two-bedroom dwelling and our kitchen window and garden. This privacy will only be achieved if the gate is permanently in a shut position. This is the amenity to which the condition refers.

A second aspect is security. At the moment there is no public access to Well Cross Yard, however with the new development, the access corridor provides access to a point in our curtilage wall that is only waist high. By conditioning this gate to be locked shut there is no loss of security to our back garden.

A locked gate is a cost-effective way of providing privacy and security. It is not unreasonable and would not be difficult for a responsible and neighbourly landlord to enforce that the gate remains locked except when being used by their contractors for maintenance.