

[REDACTED]

From: paul collins [REDACTED]
Sent: 07 January 2019 18:50
To: David Easton; Neil Crowther; Karl Roberts
Cc: Planning.Responses; Cllr. Dawn Hall; Cllr. Ashvin Patel; Cllr. Gillian Brown; Cllr. John Charles; Cllr. Richard Bower
Subject: P/140/17 OUT Land South of Summer Lane & West of Pagham Road Pagham & P/25/17 OUT - Church Barton House Horns Lane Pagham

Dear All

Happy New Year.

I invite you to read the following carefully as it and any response may well form part of the evidence base for any future High Court proceeding and /or complaints to the Local Government Ombudsman regarding maladministration.

My client Pagham Parish Council (PPC) had noted that as submitted on 10 March 2017 application P/25/17 OUT was an Outline application with all matters except for access reserved and that the submitted application form dated 10 March 2017 described the development proposed as being:

"Erection of 89 dwellings access roads, landscaping open space and associated works"

Furthermore when notified of the application by Arun District Council pursuant to paragraph 8(1) of Schedule 1 to the 1990 Act (local planning authorities: distribution of functions)(b) PPC noted that Arun District Council had validated the application and carried out the statutory publicity and advertisement of the application by publicity notice dated 25 March 2017 (with representations being due by 25 April 2017) using the following description:

"Outline application for access only - Erection of 89 dwellings, access roads landscaping, open space & associated works. This application is a Departure from the Development Plan".

They further noted that the applicants Planning Statement dated March 2017 states that the submitted application was:

".....an outline planning application for the erection of 89 residential dwellings with access roads, open space and other ancillary works on 4.15 ha (10.25 acres) of land at Church Barton House, Horns Lane, Pagham. Access is included for consideration at this outline stage leaving all other matters reserved for subsequent approval"
(Paragraph 1.1)

"... the plans provided for validation are all listed on the Drawing Issue Sheet attached as Appendix A (Paragraph 1.4) and that: all of these with the exception plan FS05 rev A were indicative and did not form part of the application submitted and validated.

Finally paragraphs 5.4 and 5.5 of the Planning Statement (which it is assumed was excepted as being the mandatory Design and Access Statement because no other is on file) state:

5.4 As explained in the Transport Assessment, vehicular access to the site will be gained via Horns Lane which connects to Summer Lane. It can be modified to provide kerbed footways of 1.8m on both sides of a 4.8m wide carriageway and connect to the access proposed in connection with the planning application approved on adjoining land (P58/15/out) and proposed (P/140/16/out). The application site shown on plan FS05 rev A includes the Horns Lane access and that part of Summers Lane which the applicant has a right of way to the designated highway land.

5.5 Importantly since the layout is submitted for illustrative purposes it has the potential, subject to the neighbouring landowners' agreement, to facilitate 2 additional linkages into the adjoining application site. The linkages would assist the overall permeability of the Pagham south strategic allocation and are shown on the site masterplan and the site location plan FS06 submitted with the application.

As you are aware the "site masterplan" relates to the site of P/25/17 OUT only and has changed since in any case , there is no "site location plan FS06" on the file and the plan entitled "FS06 Access Alternatives" in Appendix A to the statement is not on file either.

Furthermore you will also be aware that application P/140/16 OUT was approved conditionally by your authority on 22-11-18 and that there is nothing in that permission which provides for access to or integrates the proposals on that site with those on the site of P/25/17 OUT as that application stated. (when submitted)

You are also aware from pre action correspondence that PPC has now issued an application to the High Court for permission to seek judicial review of the Council's decision to grant planning permission in outline under Council reference P/140/16 OUT and that Ground 1 of the four grounds in that application is a *Failure to understand the provisions of the development plan and/or failure to have regard to Claimant's representations*" and that paragraphs 16 – 23 of the application in essence explain the Ground for claim by reference to the lack of integration and pre decision master planning between P/25/17 OUT and P/140/16 OUT in terms of access and layout (as required by relevant development plan policy) and a failure to have regard to the representations made by PPC about such matters contrary to Article 25(2) Town and Country Planning (Development Management Procedure) (England) Order 2015 and it would seem on the basis of the foregoing that this Ground is well founded and that the Council should agree to consent to judgment on at least this Ground as such legal errors cannot be remedied by retrospective actions regarding outstanding undetermined applications.

However, on reviewing the web file for P/25/17 OUT PPC now notes that the web file description of the application has been changed following the seasonal break so that it now reads:

"Outline application with all matters reserved - Erection of up to 65 No. dwellings, access roads, landscaping, open space & associated works".

This suggests that the application has been changed so that access/egress from the site to/from a public highway no longer forms part of the application and is now a reserved matter but since the description given on the application forms remains unchanged, the only submitted plan forming part of the application (Location plan FS05 rev A) remains unchanged and the Planning Statement remains unchanged and no further publicity/advertisement or notification to PPC has taken place since 25 March 2017 it would seem that any such change cannot have occurred or been effected lawfully which in turn would render any decision made on the basis of same unlawful.

However for the avoidance of any doubt please take this E mail as formal written confirmation pursuant to paragraph 8(1) of Schedule 1 to the 1990 Act (local planning authorities: distribution of functions)(b) that PPC wishes to be notified of any alteration to this application accepted by the authority since the date of its submission and that PPC considers that your authority will comply with your duty to notify PPC of any such alterations by—
(a)sending a copy of the alteration to the council; or
(b)informing the council in writing of its general effect,

Finally please also take notice that in accordance with Article 25 1) and 2) The Town and Country Planning (Development Management Procedure) (England) Order 2015 PPC do propose to make representations about the manner in which the application should be determined and will make those representations within 21 days of the date that the requisite written notification is provided by Arun District Council. In the meantime PPC understands

that your authority must not determine the application before— (a) the council of the parish inform them that they do not propose to make any representations; (b) representations are made by the council; or (c) the period of 21 days mentioned in paragraph (1) has elapsed.

Please acknowledge receipt of this e mail and confirm your intentions with regard to the statutory duties specified.

Paul Collins BA (Hons) DipTP MRTPI



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Chartered Town Planner