

[REDACTED]

From: paul collins [REDACTED]
Sent: 10 April 2021 10:47
To: Daniel Vick <Daniel.Vick@arun.gov.uk>; Simon Davis <Simon.Davis@arun.gov.uk>; Karl Roberts <Karl.Roberts@arun.gov.uk>

[REDACTED]

Subject: RE: P/35/21 PL - Land at Summer Lane Pagham

Mr Vick

Further to my last below and for clarity (because I know that officers are all working in difficult circumstances and I am told that you may not be able to talk to each other) I draw your attention to the attached letter sent to Mr Roberts on the date specified in the letter and the fact that the letter requests a response from Mr Roberts by 19 April 2021.

Hopefully given my e mail and attachments below the action under consideration set out in the attached letter will not be necessary but your confirmation before 19 April 2021 would be both helpful and appropriate in the circumstances.

Please place this e mail, the one below, the attached letter and any responses on the file for P/35/21 PL and that for P/1/21 PL

Thank you

Paul Collins BA (Hons) DipTP

[REDACTED]

From: paul collins [REDACTED]
Sent: Friday, April 9, 2021 11:10 AM
To: 'Daniel Vick' <Daniel.Vick@arun.gov.uk>; 'Simon Davis' <Simon.Davis@arun.gov.uk>; 'Karl Roberts' <Karl.Roberts@arun.gov.uk>

[REDACTED]

Subject: P/35/21 PL - Land at Summer Lane Pagham

Mr Vick

Please arrange for the attached Location and Context Plan to be put on the file in substitute for the original Location and Context Plan provided at submission. No change to the submitted application forms is required other than the Site Area of 11.70 Hectares specified in answer to Q4 needs to be altered to read 3.92 hectares and please take this e mail as being my authority for you to do so.

Since the application made can no longer be considered 'similar' to P/1/21 PL (previously refused and now at appeal) for the purposes of Section 70 b of the Town and Country Planning Act 1990 (as amended) please also confirm by return that the application will now be advertised and determined in accordance with the Councils extant Validation letter dated 24 March 2021.

Thank you

Paul Collins BA (Hons) DipTP



Paul Collins BA (Hons) DipTP Town and Country Planner

36 Manor Road Selsey West Sussex PO 20 0SD

To: Karl Roberts Director of Place Arun District Council Civic Centre, Maltravers Rd, Littlehampton,
West Sussex, BN17 5LF

BY E MAIL ONLY

8 April 2021

Dear Mr Roberts

Letter before claim in the matter of Application P/35/21 PL - Land at Summer Lane Pagham

I refer to the Pre-Action Protocol for Judicial Review (https://www.justice.gov.uk/courts/procedure-rules/civil/protocol/protocol_jrv#claim) and now write to provide your authority with a letter before claim in accordance with that protocol. If you are not the right person in your authority to receive and respond to this letter please forward it to the correct person and confirm that this has been done.

The purpose of this letter is to identify the issues in dispute between my client applicants and your authority and establish whether or not their prospective litigation can be avoided and it has been written in accordance with the form prescribed at Annex A to the protocol

Proposed claim for judicial review

Prospective defendant: Arun District Council Civic Centre, Maltravers Rd, Littlehampton, West Sussex, BN17 5LF

Prospective claimants: Paula Hilton & Brian Biermann Meadow Sweet Summer Lane, Pagham, Bognor Regis, West Sussex, PO21 4NG

The defendant's reference details: P/35/21 PL

Details of the claimants' legal advisers, if any, dealing with this claim:

Not applicable at this date

The details of the matter being challenged:

The decision taken by Officers on 31st March 2021 allegedly acting under powers delegated to them by Arun District Council to decline to determine the application made under ADC Ref: P/35/21 PL allegedly in accordance with section 70B of the Town and Country Planning Act 1990 (as amended).

The details of any Interested Parties:

None that the claimant is aware of

The issue

The claimants made an application for the Material change of use of land from agricultural use to use for open space under ADC Ref : P/1/21 PL on 12-01-21 and by notice dated 04-03-21 Arun District Council refused to grant the Planning permission sought.

Aggrieved by that decision the prospective Claimants lodged an appeal under S78 of the Town and Country Planning Act 1990 (as amended) with the Planning Inspectorate on 05/03/2021 against that decision and served notice of that appeal on Arun District Council on the same day.

On 08-03-21 the prospective claimants made a repeat application for the same development on the same site to Arun District Council with the request that they review their decision in accordance with best practice relating to such appeals satisfied that none of the circumstances that would entitle Arun District Council to exercise their discretion to decline to determine such a repeat application under Section 70 a of the Town and Country Planning Act 1990 (as amended) were applicable,

By letter dated 24th March 2021 Arun District Council wrote and advised the claimants that the repeat application under Council ref: P/35/21 PL was accepted as a valid application on 18 March 2021 and that the Council aims to make as many decisions as possible before the end of the statutory determination period, which in this case will be 17 June 2021 and that if the applicant had not received a decision by 17 June 2021 or agreed in writing to extend the time in which the Council make a decision they would have 6 months in which to appeal to the Secretary of State under S78 of the Town & Country Planning Act 1990 (as amended).

By letter dated 29 March 2021 The Planning Inspectorate wrote to the prospective claimants and stated that they had checked the documents submitted and confirmed that the appeal against the Councils decision to refuse application P/1/21 PL was valid.

By e mail dated 31 March 2021 Mr. Vick (A Team Leader in Development Control at Arun District Council) wrote to say that : *Further to validation of your application P/35/21/PL, I write to inform you that the Council has used its discretionary powers to decline to determine the application in accordance with section 70B of the Town and Country Planning Act 1990 (as amended) and ended that e mail with the following assertion: Please note that there is no right of appeal against this decision but you may challenge this decision by way of judicial review in the court in the usual way if you so wish.*

Section 70B of the Town and Country Planning Act 1990 (as amended) relates to the **Power to decline to determine overlapping applications** and the application under ref: P/35/21 PL was not an overlapping application as it was not made until after P/1/21 PL had been determined by Arun District Council and after an appeal against that decision had been lodged so that Section 70 B does not Prima facie confer any power to decline to determine repeat applications like that submitted under Council Ref: P/35/21 PL as any powers to do so are conferred by **Power to decline to determine subsequent application** under Section 70A of the act and not Section 70 B.

Therefore in deciding not to determine the repeat validated application under ref: P/35/21 PL the Council acted ultra vires.

The details of the action that the defendant is expected to take

Withdraw its e mail dated 31st March 2021 and the decision taken not to determine the application P/35/21 PL and continue to proceed with the determination of the application in accordance with its extant Validation letter dated 24 March 2021.

Alternative Dispute Resolution proposals

None are available to the Claimants

The details of any information/documents sought

PDF Copies of any Officers report and/or e mails relating to P/35/21 PL not currently available on the public file including any written communications sent between all and any ADC Officers dealing with the matter between the date of the submission of P/35/21 PL on 8/3/21 and 31st March 2021 when the subject delegated decision was issued.

Proposed reply date and address

Please reply to this letter within 7 working days by e mail to the e mail address given in this letter

Paul Collins BA (Hons) Dip TP

On behalf of the Prospective Claimants

8 April 2021