

From: Karl Roberts
Sent: 05 April 2022 15:58
To: paul collins
Cc: David Easton; Neil Crowther; Claire Potts
Subject: RE: P/22/22/PL - -Land West of Hook Lane Pagham PO21 3PB

Dear Mr Collins,

Thank you for your email, the contents of which are duly noted, we clearly have differing views as to whether section 73 can be used. We are satisfied it can in principle. However, in doing so we need to be mindful of whether the changes proposed fundamentally alter the permission.

Regards
Karl Roberts

From: paul collins [REDACTED]
Sent: 31 March 2022 12:35
To: Karl Roberts <Karl.Roberts@arun.gov.uk>

Subject: RE: P/22/22/PL - -Land West of Hook Lane Pagham PO21 3PB

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Dear Mr Roberts

Thank you for the reference and I attach the judgement in that case. Having read the judgement itself I find that on any plain reading it does not support your contention that S73 may be used to vary conditions imposed on a reserved matters approval and in fact only reinforces my contention that s73 may only be used to vary the conditions imposed on a planning permission granted conditionally (however that conditional planning permission is granted) and in the absence of any of the other various judgements references to which you refer I remain of the views as expressed in my representation set out in my e mail below dated 5 March below.

Furthermore I must also point out that whilst case law can of course alter the prevailing view as to how the law should be interpreted in the circumstances of the particular case to which it relates it does not and cannot change the law itself and in this regard I would also urge you and your colleagues to read and have regard to the relevant PPG at <https://www.gov.uk/guidance/flexible-options-for-planning-permissions#how-can-a-proposal-that-has-planning-permission-be-amended> which provides clear up to date government guidance as to how the law (which has not been changed by the government despite any subsequent case law) as I am aware that ADC are not following that guidance in respect of a number of housing sites in Pagham and elsewhere in the district (see my separate correspondence relating to each and every site in Pagham submitted or to follow) .

This matter is important as the ability or otherwise of ADC to enforce the conditions imposed on P/30/19 OUT and its related S106 Agreement is entirely dependent on how you deal with this matter so I urge you and your colleagues to seek an external specialist legal opinion before proceeding further as you currently intend.

In particular and given the high degree of local objection and interest in this matter I would also urge you (once again) not to make any decisions relating to this site under delegated powers and ensure that such matters are determined by the Planning Committee as they are and will continue to give rise to discretionary judgements/actions under the Planning Acts and notwithstanding the ever changing Constitution such discretion is for elected members to exercise or not based on the advice of Officers and conflicting representations and I submit that it cannot be right as a matter of principle that Officers exercise/implement those discretionary judgements/actions based on their own (and I say flawed) assessments despite all third party representations to the contrary.

Please place this correspondence and the attachment on the relevant file P/22/22PL and keep me posted as to how my representation is being progressed and addressed in the normal way.

Thank you

Paul Collins BA (Hons) DipTP

[REDACTED]

From: Karl Roberts [<mailto:Karl.Roberts@arun.gov.uk>]

Sent: Thursday, March 31, 2022 10:19 AM

To: paul collins [REDACTED]

Cc: Neil Crowther <Neil.Crowther@arun.gov.uk>; David Easton <David.Easton@arun.gov.uk>

Subject: RE: P/22/22/PL - -Land West of Hook Lane Pagham PO21 3PB

Dear Mr Collins,

There are various legal judgements but you may find some of the principles established in Pressland v Hammersmith and Fulham LBC [2016] EWHC 1763 (Admin) and Fulford Parish Council v City of York Council.

Regards

Karl Roberts

From: paul collins [REDACTED]

Sent: 24 March 2022 12:26

To: Karl Roberts <Karl.Roberts@arun.gov.uk>; Neil Crowther <Neil.Crowther@arun.gov.uk>; David Easton <David.Easton@arun.gov.uk>

[REDACTED]

Subject: RE: P/22/22/PL - -Land West of Hook Lane Pagham PO21 3PB

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Mr Roberts

Please can you provide me with the specific case law references on which you and your colleagues base your understanding so that I (and/or others) may also seek legal advice if required.

Thank you

Paul Collins BA (Hons) DipTP

[REDACTED]

From: Karl Roberts [<mailto:Karl.Roberts@arun.gov.uk>]

Sent: Monday, March 7, 2022 7:01 AM

To: paul collins [REDACTED] Neil Crowther <Neil.Crowther@arun.gov.uk>; David Easton <David.Easton@arun.gov.uk>

Subject: RE: P/22/22/PL - -Land West of Hook Lane Pagham PO21 3PB

Dear Mr Collins,

Thank you for email.

My understanding is that case law over the last 6 years has established that section 73 can be used in respect of a RM permission. However, I am sure that my colleagues if they have any concerns on this matter will seek appropriate legal advice.

Regards

Karl Roberts

From: paul collins [REDACTED]

Sent: 05 March 2022 13:28

To: Karl Roberts <Karl.Roberts@arun.gov.uk>; Neil Crowther <Neil.Crowther@arun.gov.uk>; David Easton <David.Easton@arun.gov.uk>

Subject: P/22/22/PL - -Land West of Hook Lane Pagham PO21 3PB

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Mr Roberts

I refer to the above application accepted and validated by Officers under delegated powers on 14/2/22.

The application purports to be made under S73 of the Act and seeks to vary the Plans condition imposed on the grant of the reserved matters approval under P/132/20 RES.

S73 relates to the ability to apply to vary conditions imposed on planning permissions and does not and cannot be used to seek to vary conditions imposed on a Reserved matters approval as a reserved matters approval is not a planning permission.

The application is not lawfully made and the validation and consideration of same by officers is ultra vires and therefore unlawful. Officers should decline to determine the application and return it to the applicant and the applicant should be advised to make a fresh application for the reserved matter to which it relates under P/39/19 OUT as the time limit for submitting reserved matters under that OPP does not expire until October 2022.

Please place this e mail and any response on the file.

Thanks

Paul Collins BA (Hons) DipTP

<http://www.arun.gov.uk>

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