

[REDACTED]

From: David Easton

Sent: 22 July 2019 13:53

To: Planning.Responses <Planning.Responses@arun.gov.uk>

Subject: FW: Council ref: P/25/17 OUT, P/134/16 OUT, P/30/19 OUT and p/6/17 out

Could the below please be uploaded as a letter of representation on the specified references.

Many thanks,
David

From: paul collins [REDACTED]

Sent: 19 July 2019 19:02

To: Karl Roberts <Karl.Roberts@arun.gov.uk>; Neil Crowther <Neil.Crowther@arun.gov.uk>; David Easton <David.Easton@arun.gov.uk>; Claire Potts <Claire.Potts@arun.gov.uk>
[REDACTED]

Subject: FW: Council ref: P/25/17 OUT, P/134/16 OUT, P/30/19 OUT and p/6/17 out

Dear All

See attached as recorded on the file.

I note that Natural England is a statutory consultee on this application and if they have been consulted they have not provided a reply to date.

This is particularly significant given what the Ecology response states I would suggest. I also note that there are potential on site habitats for protected species and that the applicants surveys are all dated 2015 – 2017 some 4 - 2 years ago now and have not been updated since. In this regard see PPC refusal reason iv

Chichester District Council are also a statutory consultee on this application and their response recorded on the file is dated 8 August 2017 so they have not been consulted since that date but if they have their response is not on file. Once again this is significant given what they had to say about traffic impact on a range of junctions in their district and the fact that access (which means in relation to reserved matters, the accessibility to and within the site, for vehicles, cycles and pedestrians in terms of the positioning and treatment of access and circulation routes and how these fit into the surrounding access network) forms part of the application and the discrepancies with what WSCC Highways and Highways England say. This issue is a major concern for Pagham Parish Council, and Pagham residents and is encompassed within their reason v for refusal. Furthermore (given the previous history) such matters cannot be addressed by way of personal attendance at the DCC or some kind of quasi question and answer session at the

committee as members and the public and Pagham Parish Council need to see what is being said in writing so that they can comment accordingly

The WSCC Highways and s106 contribution responses are also interesting. Do the developers of the undetermined P/134/16 OUT and P/25/17 OUT know what is being said and are officers seriously going to advise their members that these matters can be addressed by way of a CIL compliant s106 and/or conditions which satisfy the relevant tests? If so I will obviously have to forget everything I thought I had learned about such matters over the last 40 year of my career and go back to planning school and I am definitely too old for that! Also where is the comprehensive master planned and integrated approach? PPC Refusal reasons I and V refer

The application is submitted in outline with all matters except for access reserved so that scale, layout and landscaping which are crucial to an assessment of landscape and visual impact do not form part of the application. PPC Refusal reason ii refers

Rookery Farm, Nyetimber Mill, Mill Cottage, Sefter Farmhouse and Sefter Granary are Listed Grade II and since setting for these purposes is defined in the ALP 018 and the NPPF 2019 as meaning *The surroundings in which a heritage asset is experienced. Its extent is not fixed and may change as the asset and its surroundings evolve. Elements of a setting may make a positive or negative contribution to the significance of an asset, may affect the ability to appreciate that significance or may be neutral.* the site lies within the setting of all these listed buildings. However the applicants Heritage statement fails to assess the proposals in these terms and I note that the Council's Conservation Officer has not yet commented on the proposals and that Historic England have not been consulted. We all know where such disagreements went in respect of P/140/19 OUT so I would advise Officers to proceed with caution in this regard. PPC Refusal reason iii refers.

The application states that Foul drainage is to be addressed by way of a connection to the existing SWS Ltd sewers in the locality which in turn connect to PWWTW which has known capacity issues with discharge rates to Pagham Harbour controlled under licence from NE who have stated that they would not allow an increase to those rates or permit a licence for same. SWS Ltd consultation response (attached) states;

Southern Water has undertaken a desk study of the impact that the additional foul sewerage flows from the proposed development will have on the existing public sewer network. This initial study indicates that there is an increased risk of flooding unless any required network reinforcement is provided by Southern Water. Any such network reinforcement will be part funded through the New Infrastructure Charge with the remainder funded through Southern Water's Capital Works programme. Southern Water and the Developer will need to work together in order to review if the delivery of our network reinforcement aligns with the proposed occupation of the development, as it will take time to design and deliver any such reinforcement. Southern Water hence requests the following condition to be applied: "Occupation of the development is to be phased and implemented to align with the delivery by Southern Water of any sewerage network reinforcement required to ensure that adequate waste water network capacity is available to adequately drain the development"

Grampian style conditions (i.e conditions that require infrastructure to be in place before development commences or is occupied) cannot be imposed and/or enforced unless 3 criteria have been met. These are 1 that a scheme for the infrastructure required has been approved 2. That the approved scheme will be implemented at the point envisaged and 3. That there is sufficient certainty regarding 1 and 2 to mean that it is safe to grant OPP subject to such a condition. There is no evidence that I have seen in this case that criteria 1 – 3 are met and if development commenced without such a condition being met or enforced the water quality of Pagham Harbour will be adversely affected which in turn would harm the bird population for which it is protected. PPC Refusal Reason IV refers.

It seems to me that all five PPC Reasons for withholding the OPP sought in this case are validated and substantiated by the evidence but recent correspondence suggests that you think otherwise. I therefore look forward to seeing your report and counter arguments next week as they will in my view need to be very good if you are to convince members and Pagham Parish Council that this application should be approved.

Good Luck!

Paul Collins BA (Hons) DipTP MRTPI



RTPI

Chartered Town Planner

From: paul collins [REDACTED]

Sent: Thursday, July 18, 2019 6:34 PM

To: 'Karl Roberts' <Karl.Roberts@arun.gov.uk>; 'Neil Crowther' <Neil.Crowther@arun.gov.uk>; 'Claire Potts' <Claire.Potts@arun.gov.uk>

[REDACTED]

Subject: FW: Council ref: P/25/17 OUT, P/134/16 OUT, P/30/19 OUT, p/6/17 out

Dear All

Contrary to the advice you have received in the letter dated 17 July 2019 from the agent P/30/19 OUT is a fresh application that must be determined on the basis set out at *PPG Determining a planning application ID: 21b-001-20140306* and the Committee is not restricted to or bound by the previous decision made in respect of P/6/17 OUT some 6 months ago by a previous administration. Moreover I note that the agent seems to think that the appeal outcome re P/6/17 OUT will turn on any agreements already reached between officers and the Appellant. It will not. Appeals are also determined on the basis of the PPG to which I refer above, any statement of common ground agreed to date by Officers has been agreed without the authorisation of members (Members chose to reject the officers previous advice and recommendations on all matters before refusing the application and Officers have not enabled members to consider and authorise what matters they may or may not be prepared to agree with the appellant) and Pagham Parish Council as a rule 6 party at the appeal has not seen the "advanced SOCG" either.

In this regard see below to which I have not received a reply and the last paragraph of the attached in particular.

Pagham Parish Council and I find it impossible to understand how Officers can lawfully advise (contrary to the attached) their members that the proposals under P/30/19/OUT accord with the relevant development plan policies unless they have also given members the opportunity to consider such advice alongside their advice regarding the reconsideration of these applications most notably P/134/16 OUT.

Please advise whether or not these applications will also be on the agenda for 7th August and where and when Officers will provide Pagham Parish Council with a reply to the last paragraph of the attached letter.

More material considerations and other matters for your report re P/30/19 OUT to address to follow under separate cover .

Thanks

Paul Collins BA (Hons) DipTP MRTPI

[REDACTED]



RTPI

Chartered Town Planner

From: paul collins [REDACTED]

Sent: Tuesday, July 2, 2019 3:05 PM

To: 'Karl Roberts' <Karl.Roberts@arun.gov.uk>; 'Neil Crowther' <Neil.Crowther@arun.gov.uk>; 'Planning.Responses' <Planning.Responses@arun.gov.uk>; 'Claire Potts' <Claire.Potts@arun.gov.uk>; 'David Easton' <David.Easton@arun.gov.uk>

[REDACTED]

Subject: Council ref: P/25/17 OUT, P/134/16 OUT

Gentlemen

For the record (because it is now 6 months since I last raised the same point) Pagham Parish Council formally requests that Officers return the above undetermined applications to the DCC on 7 August 2019 and before any decisions are issued so that your newly elected members might have the opportunity to reconsider the applications and the resolutions passed to grant OPP in both cases by their predecessors in the light of all material considerations and any representations that have arisen or will be made since the previous resolutions were made last year.

This request is made on the basis of *R (Kides) v South Cambridgeshire District Council* [2002] EWCA Civ 1370 when the Court of Appeal considered the circumstances in which after the passing of a resolution by a committee to grant planning permission it was incumbent upon the officer to whom delegation to approve had been given to take the planning application back.

Jonathan Parker LJ giving the lead judgment said:

"121. In my judgment a consideration is "material", in this context, if it is relevant to the question whether the application should be granted or refused; that is to say if it is a factor which, when placed in the decision-maker's scales, would tip the balance to some extent, one way or the other. In other words, it must be a factor which has some weight in the decision-making process, although plainly it may not be determinative. The test must, of course, be an objective one in the sense that the choice of material considerations must be a rational one, and the considerations chosen must be rationally related to land use issues.

122. In my judgment, an authority's duty to "have regard to" material considerations is not to be elevated into a formal requirement that in every case where a new material consideration arises after the passing of a resolution (in principle) to grant planning permission but before the issue of the decision notice there has to be a specific referral of the application back to committee. In my judgment the duty is discharged if, as at the date at which the decision notice is issued, the authority has considered all material considerations affecting the application, and has done so with the application in mind – albeit that the application was not specifically placed before it for reconsideration.

124. At one extreme, it cannot be a sensible interpretation of section 70(2) to conclude that an authority is in breach of duty in failing to have regard to a material consideration the existence of which it (or its officers) did not discover or anticipate, and could not reasonably have discovered or anticipated, prior to the issue of the decision notice. So there has to be some practical flexibility in excluding from the duty material considerations to which the authority did not and could not have regard prior to the issue of the decision notice.

125. On the other hand, where the delegated officer who is about to sign the decision notice becomes aware (or ought reasonably to have become aware) of a new material consideration, section 70(2) requires that the authority have regard to that consideration before finally determining the application. In such a situation, therefore, the authority of the delegated officer must be such as to require him to refer the matter back to committee for reconsideration in the light of the new consideration. If he fails to do so, the authority will be in breach of its statutory duty.

126. In practical terms, therefore, where since the passing of the resolution some new factor has arisen of which the delegated officer is aware, and which might rationally be regarded as a "material consideration" for the purposes of section 70(2), it must be a counsel of prudence for the delegated officer to err on the side of caution and refer the application back to the authority for specific reconsideration in the light of that new factor. In such circumstances the delegated officer can only safely proceed to issue the decision notice if he is satisfied (a) that the authority is aware of the new factor, (b) that it has considered it with the application in mind, and (c) that on a reconsideration the authority would reach (not might reach) the same decision."

No need for you to reply (we have your previous replies) as I just wanted you and other cc/bcc recipients with an interest (who may also wish to make the same request) to be aware that Pagham Parish Council has (yet again) formally made this request and give you the opportunity to act on it by redirecting your scarce officer resources

away from trying to agree a S106 and issueing a decision in each case and towards writing reports for this DCC so that they may have the opportunity to reconsider the matters and refuse the OPP sought in both cases if they wish to do so thereby saving time and wasted resources for all.

Please place this e mail and any response you may choose to make on the above files.

Thanks

Paul Collins BA (Hons) DipTP MRTPI



RTPI

Chartered Town Planner