



24 May 2021

Our Ref: OJ/16.154

Neil Crowther Esq
Arun District Council
Civic Offices
Maltravers Rd
Littlehampton
West Sussex
BN17 5LF

Dear Mr Crowther,

Application P/50/21 Material change of use of land from agricultural use to use for open space.

I am writing on behalf of my client, Hallam Land Management Limited, who have a legal interest in land that is subject to Application P/50/21. This seeks planning permission for a material change of use of land from agricultural use to use for open space.

Plainly the Applicant acknowledges that the application site is, in part, "agricultural land", and that for the Site to be "open space" it would constitute a material change in its use. It follows that the Applicant does not see the use of the land as "open space" as an immaterial change. The Applicant is therefore proposing that the Site is used in a new and different way from its current use.

The Applicant's Supporting Statement is somewhat contradictory. In the first instance it suggests that *"no operational development, engineering operations or landscaping is required, and none are necessary in order to effect the change of use"*.

Later it suggests:

Planning permission is sought for the use of the land for the purposes of public recreation. Such recreational land use could (if granted and implemented) incorporate new swales and ditches (including improvements to the existing) associated with a Sustainable Urban Drainage system for this part of Pagham as well as alternative natural open space required to off set the water quality and recreational disturbance impacts on Pagham Harbour likely to be caused by the housing development currently planned for Pagham, Alwick and West Bersted as required under ALP Policy ENV DM2 Pagham Harbour. (emphasis added)

Plainly the Applicant intends for there to be public access to the land and in the second explanation engineering works change the character and appearance of the land as well as its use. Such engineering works may require planning permission and / or land drainage consent.

It is a basic principle that a planning permission relates to the land concerned and runs with the land. Absent any control over land that is subject to either a planning application or thereafter a permission, an applicant is not able to implement the said permission. It is material therefore to consider whether there is any prospect of a planning permission for "open space" being implemented.

In this instance, the Applicant is a private individual who has no legal interest in the land covered by the application. Accordingly, the Applicant has no means to secure the material change of use of the land for which permission is sought i.e. the Applicant cannot bring about the use of the Site in a new and different way.

The private individual has no means to enforce the cessation of the agricultural activity that would be required to implement that change of use. Similarly, the private individual has no means to undertake any soft or hard landscaping or engineering works necessary for the land to be used for the purposes of public recreation. The private individual has no means of granting public access to the land such that it could serve any practical open space purpose in these terms.

The consultation response from WSCC Highways requires a grampian planning condition to deliver pedestrian access into the site, provided below:

Prior to the use of the land for public recreational purposes commencing, access for pedestrians shall be provided to the land from Hook Lane in accordance with plans and details submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of road safety.

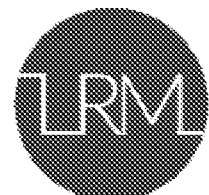
The Planning Practice Guidance states at paragraph 009 (Reference ID: 21a-009-20140306) that grampian conditions *should not be used where there are no prospects at all of the action in question being performed within the time-limit imposed by the permission*. Clearly in this situation the pedestrian access required will not be provided (nor is the landowner obliged to provide this) and the private individual has no legal means by which to secure it. The Grampian required by the Local Highway Authority to make the development acceptable is not therefore appropriate and accordingly the permission should not be granted.

The private individual is aware from his involvement in matters associated with the application site historically, and as recently as correspondence to the District Council on the 4th May 2021, that the application site is part of the North Pagham Strategic Site allocated for development to meet the District's housing need in the adopted Local Plan.

Moreover, land within the application site benefits from outline planning permission granted in September 2019, pursuant to the Development Plan. No statutory challenge was brought to the grant of this planning permission and it remains a lawful planning permission. You will be aware that certain of the outline planning permission's conditions have been discharged and that a reserved matters application has been submitted pursuant to condition 1 of the outline planning permission. The reserved matters application has been subject to statutory consultation and the Applicants and the Council are working together to address those comments.

This is demonstrable evidence of the intention to develop the site in accordance with the development plan and the extant planning permission, which is material to the question of whether there is any prospect of the landowner permitting the alternative use. Plainly in these circumstances, there is not.

Within the Supporting Statement the applicant refers to the extant outline planning permission (P/30/19) and suggests the submitted application if approved would allow the beneficiary of that outline planning permission to either continue with its established development proposals or pursue a different approach. That is of no relevance to the merits of the application before the Council for which there is no justification in the development plan or by reference to material considerations. Indeed, the existence of the outline planning permission is a material consideration in its own right and the clear intention to develop the land in accordance with that permission underlines its continued relevance.

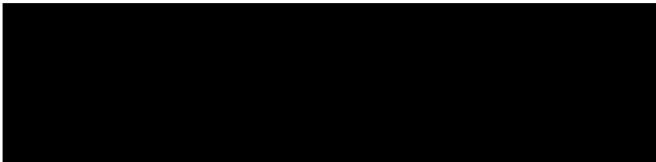


It should be noted that the private individual has already submitted and subsequently withdrawn an application of this nature on this site previously (ref: P/4/21/PL). Similarly, the private individual submitted an application for a material change of use at the land at Summer Lane, Pagham (ref: P/1/21/PL). This application was refused at planning committee on the 3rd March 2021. The Officer's Report to Planning Committee recommended refusal of this application, concluding it did not accord with Policies H SP1, SP2 and H SP2a of the Arun Local Plan and would prejudice delivery of the Local Plan housing strategy and contrary to paragraph 59 of the National Planning Policy Framework. Thus, should this application (ref: P/50/21) progress, the refusal of the application at Summer Lane has established the precedent that such an application is without merit.

Again, I am left with no other conclusion than the application serves no meaningful purpose and it is entirely again without merit. There is simply no reasoned justification for granting planning permission for the change of use that is sought, and moreover, the applicant has no means of implementing that change of use. For the avoidance of doubt, there is no prospect of the landowners that I represent making its land available for the use of the land that the planning application seeks.

I trust you will consider these representations in determining application P/50/21.

Your faithfully,

A large black rectangular redaction box covering the signature area.

Owen Jones
Director

