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From: Jenny Henderson [REDACTED]
Sent: 20 July 2021 12:16
To: Raymond Cole <Raymond.Cole@arun.gov.uk>

[REDACTED]

Subject: Application Reference P/57/21/PL - Planning Committee 21st July

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Dear Raymond,

On behalf of Hanbury (PM) Ltd and the landowners of land South of Summer Land, Pagham, please find attached an objection to application reference P/57/21/PL, being considered at tomorrow's Planning Committee.

You may be aware of the appeal on the site for a very similar form of development which was dismissed yesterday? The attached letter encloses this decision (as well as the Costs Decision), which is material to the determination of the application being considered by the Committee tomorrow. I would be grateful if this letter could

be shared with the Planning Committee as 'updates to committee'. This email/letter has also been copied to the Chair and Vice Chair of the Planning Committee for completeness.

Please come back to me if you require any further information.

Many thanks

Jenny

Jenny Henderson MRTPI
Principal Planner
For Ridge and Partners LLP



Ridge Cheltenham office has moved to new premises. Our new address is 3rd Floor, Regent House, 65 Rodney Road, Cheltenham, GL50 1HX. Please could you amend your records.

Pf/eds/

20th July 2021

Raymond Cole
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Dear Raymond,

Planning application P/57/21/PL - Land West of Pagham Road and Land South of Summer Lane, Pagham

I write on behalf of Hanbury (PM) Ltd and landowners of land at Summer Lane, Pagham to object to the planning application for the *'change of use of 12.16 hectares of agricultural land to use for Alternative Natural Green Space, Public Open Space, Allotments & SUDS Scheme (7.48 hectares) and use for a local centre comprising a library, health, child care facilities and a 1/2 FE Primary School'* which is due to be heard by the Planning Committee on 20th July 2021. It is requested that this letter be provided to the Planning Committee as 'updates to committee'; for completeness, this has also been sent directly to the Chair and Vice Chair of the Planning Committee.

The application is very similar to a previous application on the site, considered by the Planning Committee on 3rd March 2021, for the *'material change of use of land from agricultural use to use for open space'* (P/1/21/PL). This application was refused by the Planning Committee and was subsequently appealed by the Appellant (APP/C3810/W/21/3270415). The appeal was **dismissed** (decision date 19th July 2021) and also costs were awarded against the Appellant for **unreasonable behaviour**. Whilst it is noted that the site boundary for the above application differs from that considered by the appeal Inspector, the site being considered by the committee now primarily falls within the 'Pagham South' allocated site. This appeal decision and Costs decision are material considerations for the determination of the application before the Planning Committee, and are attached for reference.

Hanbury (PM) Limited and the landowners of land at Summer Lane **object** to the above planning application and supports the the conclusions made by Arun District Council in the Officers Report to Committee (in respect of the first reason for refusal), as well as the conclusions of the Inspector. The proposed development is considered to be in direct conflict with the Development Plan and will irreversibly damage the housing strategy of the Plan, to the detriment of the housing supply and affordability of housing within the District. It is also conflicts with the intentions of the landowners to deliver the site in line with the extant planning permissions and the Development Plan requirements, and therefore the proposed development has no prospect of being delivered.

Consideration of the Development Plan

Planning law requires that applications for planning permission be determined in accordance with the Development Plan, unless material considerations indicate otherwise. The adopted Development Plan is the Arun District Local Plan.

The site forms part of the Strategic Housing Allocation SD1 at Pagham South, as defined by the policy map. Policy H SP1 identifies that at least 20,000 new homes will be accommodated in the District; 400 of these are to be located

at Pagham South (Allocation SD1). Policy SP2 requires that development proposals within the Strategic Site Allocations be comprehensively planned, having regard to a masterplan endorsed by the Council for the respective areas. The policy also sets out a number of requirements that must be met. Policy H SP2a focusses on the 'Greater Bognor Regis Urban Area' and includes Pagham (both SD1 Pagham South and SD2 Pagham North). The policy sets out key design and infrastructure requirements for the two Pagham strategic allocations. It is considered that the proposed development conflicts with the above policies because it fails to bring forward the housing and associated infrastructure prescribed by the policies, as required by the Plan's housing strategy.

This was agreed by the Appeal Inspector in respect of the above appeal (APP/C3810/W/21/3270415), who stated:

'6. Policies H SP1, H SP2 and H SP2a of the Arun Local Plan set out the quantity and location of housing development needed in the District including strategic allocations in Pagham, requirements for those strategic allocations including that they be comprehensively planned and have regard to a masterplan endorsed by the Council, and ensure that development in the greater Bognor Regis urban area takes place in a coordinated manner with supporting infrastructure.'

'7. Use of the appeal site solely as open space would conflict with these policies. It would prevent the planned or granted delivery of a significant amount of housing needed to meet demand in the area. It does not form part of a comprehensive plan or have regard to any masterplan endorsed by the Council for the development of the strategic housing allocation. Nor would it align with the sustainable growth of the Bognor Regis urban area as envisaged in the Arun Local Plan. Furthermore, it would undermine the Government's objective of significantly boosting the supply of homes as set out in paragraph 59 of the National Planning Policy Framework (the 'Framework').'

'8. The appellants suggest that as only a proportion of the strategic housing allocation is included in the appeal site, use of the appeal site for open space would not prejudice the delivery of the planned housing numbers on the remainder of the strategic housing allocation. However, that is not supported by the illustrative framework plan for the strategic housing allocation which shows land south of Summer Lane to be used for residential development. It would also have knock-on effects for the density and layout of the remainder of the overall strategic allocation to the detriment of its comprehensive planning, and to the detriment of the wider area.'

Whilst additional policies were relied on by the Appellant (relating to the natural environment, biodiversity, green infrastructure, health and wellbeing, allotments, open space, and outdoor sport and recreation), the inspector recognised that for this site, the most important policies in the Development Plan related to the delivery of housing.

To conclude, the Development Plan is to be read as a whole and it is considered that the proposed development is in acute and detrimental conflict with local policy. This is confirmed by the Appeal Inspector in Paragraph 11 of the Appeal Decision. In addition, the Council cannot currently demonstrate a five year supply of deliverable housing and the loss of this site to other uses would only exacerbate this position to the detriment of the strategic delivery of housing in the District, aggravating the shortfall and placing development pressures on other parts of the District.

Delivery of the Proposed Development

Whilst there is a small parcel of land to the north-east which is already proposed as Public Open Space (delivered as part of application P/58/15/OUT), the majority of the land has planning permission for 'mixed use development comprising of up to 400 dwellings, a care home with up to 70 beds, a Local Centre comprising up to 2000sqm of

A1/A2/A3/D1/sui generis floorspace, provision of land for a 1FE primary school (with sufficient space to ensure that it is expandable to 2FE), provision of land for a scout hut, safeguarding of land to help link the site to the Pagham Harbour Cycle Route & other community uses including public open space & allotments with some matters reserved' (application reference P/140/16/OUT). The residential parcels of land (including the land in the north-west of the application site, as well as land to the south of the application site) have been sold to Foreman Homes Ltd and an application to discharge Condition 6: Design Code Masterplan (reference P/83/21/DOC) is currently being determined by Arun District Council. The southern parcel of land has been retained by Hanbury (PM) Ltd, who will deliver the Local Centre and Care Home as secured by the above planning permission.

Both Foreman Homes and Hanbury (PM) Ltd are in the process of preparing applications for the approval of reserved matters for both the residential parcels and the Local Centre/Care Home parcel respectively, and these applications are due to be submitted shortly. There are clear intentions to develop the site in line with the extant planning permission, and therefore it is considered there is no prospect of the landowners delivering the public open space, or the Local Centre, proposed as part of this appeal. The Appellants have no control or ownership of any part of this site and has not entered into discussion with the landowners or their agents. The Appellants therefore have no ability to deliver the proposed development. This is recognised by the Appeal Inspector at Paragraph 5 of the Costs Decision where the Inspector notes that *'there is no reasonable prospect of the proposed use being implemented'*.

The Inspector also recognises the attempts of the Applicant to frustrate the delivery of housing at Paragraph 6 of the Costs Decision:

'6. The appellants are professionally represented by a planning agent who, based on the correspondence and representations before me, is very familiar with the housing strategy of the Arun Local Plan and has sought to oppose it both in the past and more recently through applications for alternative uses on the strategic housing allocations in Pagham. While that opposition may be heartfelt, now that these housing allocations have been agreed as part of the adopted Arun Local Plan, attempts to oppose or frustrate them as a matter of principle in the manner undertaken with this appeal is, in my view, unreasonable behaviour.'

The Inspector concludes the following in terms of unreasonable behaviour:

'7. I consider the submission of the appeal for a use unconnected with the allocated or permitted use of the majority of the site, and with no realistic prospect of it ever being implemented, is unreasonable. That unreasonable behaviour has necessitated the Council to incur unnecessary and wasted expense in defending its first reason for refusal, on whether the proposal would prejudice the delivery of housing.'

It is considered that this same conclusion would be made in respect of the application currently before the Planning Committee.

Summary

In light of the above, it is considered that the application is in direct conflict with local policy and in the first instance fails to have regard to policies H SP1, H SP2 and H SP2a of the Arun Local Plan 2011-2031. The development would irreversibly damage the housing strategy of the Plan, to the detriment of the housing supply and affordability of housing within the District. There are no material considerations that suggest that development should be determined other than against the Development Plan. This is consistent with the views taken by the Inspector determining a very similar appeal on the site, as set out above (APP/C3810/W/21/3270415).

Furthermore, it is also clearly the intention of the landowners to deliver the site in line with the extant planning permissions and the Development Plan requirements. Therefore, it is not considered that would be any prospect of the proposed development being delivered in any event.

We have read your officers report on this application and believe it is a fair representation of the planning policy situation pertaining to the site, particularly in relation to the first reason for refusal.

In light of the above, we respectfully agree that the application should be refused on this occasion.

Yours faithfully

Ridge and Partners LLP

Enclosures:

Appeal Decision APP/C3810/W/21/3270415

Costs Decision against Appellants APP/C3810/W/21/3270415

CC:

Councillor Terence Chapman

Councillor Martin Lury

Appeal Decision

Site visit made on 13 July 2021

by Guy Davies BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19 July 2021

Appeal Ref: APP/C3810/W/21/3270415

Land at Summer Lane, Pagham PO21 4NG

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Paula Hilton and Brian Biermann Collins against the decision of Arun District Council.
 - The application P/1/21/PL, dated 11 January 2021, was refused by notice dated 4 March 2021.
 - The development proposed is a material change of use of land from agricultural use to use for open space.
-

Decision

1. The appeal is dismissed.

Applications for costs

2. Applications for costs were made by Paula Hilton and Brian Biermann Collins against the decision of Arun District Council, and by Arun District Council against Paula Hilton and Brian Biermann Collins. These applications are the subject of separate decisions.

Preliminary Matter

3. On the application and appeal forms the appellants are given as Paula Hilton and Brian Biermann Collins, while on the appeal statement and final comments they are referred to as Paula Hilton and Brian Biermann. For the purposes of this appeal I have used the names given on the application form.

Main Issues

4. The main issues are:
 - whether the proposal would prejudice the delivery of housing, and
 - whether there is safe and suitable access to the site.

Reasons

Housing

5. The majority of the appeal site has been allocated or is currently being developed for housing. Part of the site south of Summer Lane falls within a larger strategic housing allocation designated as SD1 on the Policies Map to the Arun Local Plan, for which outline planning permission has been granted for up

- to 400 dwellings and associated development¹. Parts of the site lying to the north and south of Summer Lane fall within land granted planning permission for further residential development, together with an area of open space². A small part of the site north of Summer Lane lies in countryside outside the built up area boundary for Pagham and outside the permitted housing land.
6. Policies H SP1, H SP2 and H SP2a of the Arun Local Plan set out the quantity and location of housing development needed in the District including strategic allocations in Pagham, requirements for those strategic allocations including that they be comprehensively planned and have regard to a masterplan endorsed by the Council, and ensure that development in the greater Bognor Regis urban area takes place in a coordinated manner with supporting infrastructure.
 7. Use of the appeal site solely as open space would conflict with these policies. It would prevent the planned or granted delivery of a significant amount of housing needed to meet demand in the area. It does not form part of a comprehensive plan or have regard to any masterplan endorsed by the Council for the development of the strategic housing allocation. Nor would it align with the sustainable growth of the Bognor Regis urban area as envisaged in the Arun Local Plan. Furthermore, it would undermine the Government's objective of significantly boosting the supply of homes as set out in paragraph 59 of the National Planning Policy Framework (the 'Framework').
 8. The appellants suggest that as only a proportion of the strategic housing allocation is included in the appeal site, use of the appeal site for open space would not prejudice the delivery of the planned housing numbers on the remainder of the strategic housing allocation. However, that is not supported by the illustrative framework plan³ for the strategic housing allocation which shows land south of Summer Lane to be used for residential development. It would also have knock-on effects for the density and layout of the remainder of the overall strategic allocation to the detriment of its comprehensive planning, and to the detriment of the wider area.
 9. The appellants also draw attention to a range of other policies relating to the natural environment, biodiversity, green infrastructure, health and wellbeing, allotments, open space, and outdoor sport and recreation, which either support the appeal proposal or do not conflict with it. While that may be the case, for this site the most important policies in the development plan relate to the delivery of housing. None of the appeal site is recognised as being of any particular ecological or conservation value, but it is designated (or has planning permission) for housing and associated uses. Having regard to that context, determination as to whether the proposed open space use accords with the development plan rests on assessing it against the housing policies detailed above.
 10. Reference is made to a Green Infrastructure Network map for Pagham Parish, published in 2012, on which the appeal site is designated as part of a green infrastructure corridor. This map was superseded by the Local Plan Policies Map in 2018, which does not show any such designation. An updated Green Infrastructure Network Map has recently been published for Pagham Parish,

¹ P/140/16/OUT

² P/58/15/OUT and P/70/19/RES

³ P/140/16/OUT – drawing DLA.1731.L003.02.Rev B.

which is consistent with the Policies Map. As the 2012 Green Infrastructure Network map has been superseded it no longer carries any weight.

11. I conclude that use of the appeal site wholly for open space would prejudice the delivery of housing, and as a result would conflict with Policies H SP1, H SP2 and H SP2a of the Arun Local Plan, which identify the amount and location of new housing in a comprehensive planned manner, together with supporting infrastructure.

Access

12. The appeal site is accessible from Summer Lane and from a public footpath that runs along the western boundary of the part of the site lying to the north of Summer Lane. Although part of the lane is in private ownership, there is a public right of way along its length. The proposal is for the change of use of the land only and does not involve any operational development.
13. The ability to access the appeal site from the public rights of way is restricted to an extent by existing drainage ditches and in parts by hedging, but these would not prevent members of the public from gaining access. The Highway Authority has not raised objection to the proposed use on highway or access grounds, other than to request a condition requiring details of access for maintenance purposes. The appellants have indicated they are agreeable to such a condition.
14. Given its size at 11.7ha, it is reasonable to assume that the land would attract members of the public from a wider area than just Pagham. Such a use is likely to generate at least a modest need for car parking. However, this parking could take place on Pagham Road or at Pagham Village Hall, which lies adjacent to the site. Access by public transport via a bus service is also available nearby.
15. I conclude that, although not ideal, there are sufficient means of access to enable the site to be used as public open space, and access for maintenance purposes could be secured by a condition. The proposal would not therefore conflict with Policies T SP1 or T DM1 of the Arun Local Plan, which seek to provide safe access to the highway network and promote ease of movement.

Other Matters

16. I acknowledge the level of support for the proposal, which from my reading of the representations from interested parties is largely the result of their opposition to the amount of housing development planned and taking place in Pagham. However, the planned housing development has been subject of scrutiny through the local plan process, and has been found to be necessary to address housing demand in the area and to meet the Government's objective of boosting housing supply. I therefore give this support for the proposal limited weight.

Conclusion

17. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires any determination under the planning Acts to be made in accordance with the development plan unless material considerations indicate otherwise.
18. In this case the policies which are most important for determining the appeal are those relating to housing provision, for which the majority of the appeal

site is designated in the Arun Local Plan or has been granted planning permission. Use of the site for open space would frustrate the intention of those policies, which is to significantly increase housing supply in the area to meet housing demand. I have acknowledged that the proposal would not conflict with other policies in the Plan, including those relating to access, but given one of the main purposes of the Plan is to bring forward housing development in a planned manner, I consider that the appeal proposal would conflict with the development plan when taken as a whole.

19. The Council acknowledges that it cannot demonstrate a 5 year housing land supply and therefore the presumption in favour of sustainable development contained in paragraph 11 of the Framework applies. As this policy is aimed at increasing the supply of housing, the lack of a 5 year housing land supply places even more weight on the need to deliver housing on the site. Its use for other purposes, such as open space unrelated to housing development, is therefore contrary to the presumption in favour of sustainable development.
20. There are no material considerations that outweigh the conflict identified with the development plan. Consequently, I conclude that the appeal should be dismissed.

Guy Davies

INSPECTOR

Costs Decision

Site visit made on 13 July 2021

by Guy Davies BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19 July 2021

Costs application in relation to Appeal Ref: APP/C3810/W/21/3270515 Land at Summer Lane, Pagham

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Arun District Council for a full award of costs against Paula Hilton and Brian Biermann Collins.
 - The appeal was against the refusal of planning permission for a material change of use of land from agricultural use to use for open space.
-

Decision

1. The application for an award of costs is allowed in part in the terms set out below.

Reasons

2. Planning Practice Guidance advises that parties in planning appeals normally meet their own expenses. Costs may only be awarded against a party who has behaved unreasonably, and where that unreasonable behaviour has directly caused another party to incur unnecessary or wasted expense in the appeal process.
3. Planning Practice Guidance also advises that appellants will be at risk of an award of costs being made against them if development is clearly not in accordance with the development plan, and no other material considerations are advanced that indicate the decision should have been made otherwise, or where other material considerations are advanced, there is inadequate supporting evidence.
4. In this case the proposal to use the appeal site wholly as open space was clearly in conflict with the strategic housing allocation under SD1, and the grant of planning permission for residential development¹. It was therefore not in accordance with the development plan or with decisions made recently by the Council.
5. Furthermore, there is no reasonable prospect of the proposed use being implemented. The land is not owned or within the control of the appellants. Housing development has commenced on part of the site to the north of Summer Lane, and work is underway to prepare detailed plans for housing development on the allocated housing site south of Summer Lane. A representation on behalf of a developer and landowners of the land at Summer

¹ P/140/16/OUT, P/54/15/OUT and P/70/19/RES

Lane objects to the planning appeal and makes it clear that there is no intention of the appeal proposal being implemented.

6. The appellants are professionally represented by a planning agent who, based on the correspondence and representations before me, is very familiar with the housing strategy of the Arun Local Plan and has sought to oppose it both in the past and more recently through applications for alternative uses on the strategic housing allocations in Pagham. While that opposition may be heartfelt, now that these housing allocations have been agreed as part of the adopted Arun Local Plan, attempts to oppose or frustrate them as a matter of principle in the manner undertaken with this appeal is, in my view, unreasonable behaviour.
7. I consider the submission of the appeal for a use unconnected with the allocated or permitted use of the majority of the site, and with no realistic prospect of it ever being implemented, is unreasonable. That unreasonable behaviour has necessitated the Council to incur unnecessary and wasted expense in defending its first reason for refusal, on whether the proposal would prejudice the delivery of housing.
8. The Council also opposed the proposed use on access grounds. For the reasons set out in the appeal decision, this is an arguable point of detail rather than principle, and one on which I have found in favour of the appellants. It was therefore not unreasonable for them to appeal on this ground, and no costs associated with this second reason for refusal are applicable.

Conclusion

9. I conclude that unreasonable behaviour resulting in unnecessary or wasted expense has been demonstrated and that a partial award of costs is justified, in so far as it relates to the costs incurred by Arun District Council in defending the first reason for refusal on whether the proposal would prejudice the delivery of housing.

Costs Order

10. In the exercise of the powers under Section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that Paula Hilton and Brian Biermann Collins shall pay to Arun District Council the costs of the appeal proceedings described in the heading of this decision, limited to those costs incurred in defending the first reason for refusal relating to whether the proposal would prejudice the delivery of housing; such costs to be assessed in the Senior Courts Costs Office if not agreed.
11. The applicant is now invited to submit to Paul Hilton and Brian Biermann Collins, to whose agent a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

Guy Davies

INSPECTOR