

From: Simon Davis

Sent: 12 April 2023 18:04

To: [REDACTED]

Cc: Daniel Vick <Daniel.Vick@arun.gov.uk>; Stephen Andrews <stephen.andrews@arun.gov.uk>

Subject: RE: P/23/20/DOC AND SUMMER LANE PUBLIC OPEN SPACE

Dear Mr Hamilton,

Thanks for your email. Please be aware that we have a current compliance case regarding the alleged raising of the public open space land. This is an ongoing investigation. In addition, Drew Smith are presently proposing the transfer of the open space land to Arun DC and our position is that we will not agree to this unless the land is in a satisfactory and completed condition and that there are no outstanding breaches of planning permission.

The content of your email and the supporting photos are helpful to this process/our investigation. I respond to your points in red in your email below.

Kind Regards

Simon J Davis MRTPI

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From: [REDACTED]
Sent: 07 April 2023 20:02
To: Simon Davis <Simon.Davis@arun.gov.uk>
Subject: P/23/20/DOC AND SUMMER LANE PUBLIC OPEN SPACE

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Dear Mr Davis,

P/23/20/DOC AND THE SUMMER LANE PUBLIC OPEN SPACE

In none of the application documentation is there any indication that huge quantities of earth/detritus/asbestos would be moved from the north of Summer Lane to the area now known as Public Open Space. Nor is there any indication or request for permission to change the topography of that space, which I believe is forbidden by NPPF without agreement, particularly if it results in the flooding of property downstream. It is not the NPPF which governs this but yes, the raising of land without planning permission can constitute a breach of planning control.

In an email from ADC dated 23 Nov 2020 the planning officer states *"I have a resident asking me why you are moving earth from the north side of Summer Lane onto the open space area to the south. The resident alleges that a bank is being created near the boundary with existing houses (I believe this to be on the eastern side of the open space). Can you advise what is going on please?"*

On 25 Nov 2020 Mr O'Shea replied *"Within the approved POS plan there is a grass mound to be formed in the middle of the site, along with bunding around the edges. The earth has therefore been removed from the north to level the site and enable the excess to be used in forming the raised elements in the south."*

The field was level before the developer started work on it. There is no bunding around the site. There was while work went on. The bund earth was then replaced over detritus from Summer Lane and levelled out. Nothing like the thousands of tons of detritus that were moved would be needed to build the 'mound'. The above email is highly economical with the truth. See facts below.

Here are some facts:

1. Between 1875 and 1920 this whole area was used by Pagham Harbour Reclamation Company Ltd to dump mountains of builder's rubble from all over the country as part of a plan to reclaim the area. Details obtained from County archives.
2. At the outset of the development on the site north of Summer Lane in 2020, the developer excavated a large area in the area designated to be Public Open Space and surrounded it with a berm using the excavated earth. This can clearly be seen in the accompanying photographs. This turned into a large lake. He then started depositing debris excavated from the foundations of houses on the building site onto this land now described as Public Open Space (POS). This was carried out for approximately 10 months on a virtually daily basis by two large dumper trucks. Thousands of tons of detritus will therefore have been moved to the POS and eventually damped down. I acknowledge the comment from the developer in the November 2020 email about bunding around the edges but beyond that, we had no knowledge of the works that you describe until late in 2022 which resulted in an investigation being commenced.

3. An area now under the existing mound was further scraped to an unknown depth and further rubble including asbestos was placed in it. This was then itself covered with a large orange sheet which was then covered by more rubble and the mound formed. This is confirmed by Sanctus management. The Sanctus Verification Report that we have seen (but no longer have a copy) and believe you refer to does detail the burying of Asbestos Containing Material (ACM) on the site under a membrane but none of the locations of this tally with the site of the mound. However, we are seeking further confirmation of this fact from Drew Smith as other parties have alleged that material was buried under it.
4. Very early in this process workers wearing safety clothing and masks worked on this area and a decontamination vehicle was situated on it (I hold a photograph of the wagon taken in Nov 2020). A worker admitted to a member of public that they were burying asbestos. When a member of public tried to take a photograph of this activity, they were verbally abused. A resident informed an officer at the time that they believed asbestos was being buried on the site. I spoke with the Director of Sanctus (on 27/3/23) who openly admitted that his people were employed for about ten weeks moving asbestos from the building site to the POS and then overlaying it with an orange sheet before overcovering. The tippers were not covered while transporting this detritus across a residential road and public footpath, despite this requirement being stated in the CEMP (4.5.1). Nor was the asbestos double bagged. Witness statements concerning the movement of asbestos are held. We are fully aware that ACM was buried on the site. This is not in itself a planning breach, and no contamination conditions were imposed on the planning permissions.
5. The result of this deposition is that the whole area of the POS is approximately 1 metre higher than the original level land. Houses on the eastern edge of the POS have gardens which were originally above the level of the field. Residents are quite clear that prior to this activity, water accumulation on the field used to run off to the west. They are now well below the level of the field and in recent months some of those house's gardens have been flooded so badly that the water has flowed through their gardens into Pagham Road from curb to curb. Two houses have had to resort to pumping water off site onto Pagham Road. If photo Savill 002 is blown up, it indicates that the buildings to the east and the Pagham playfield are higher than the field. If you stand at the north-west corner of the Pagham village hall open space the higher level of land is very clearly seen. As stated, we are presently investigating the land raising. We are also aware of the flooding issues. Can you advise how you have arrived at the suggestion that the land has been raised by 1m? There are no known records of the previous levels of the original field that we are aware of so whilst all the evidence points to the fact that levels have been raised, it is difficult to say with any certainty by how much.
6. The deposits on the POS contain a huge amount of flint, rocks and bricks which are littered all over the surface, making it very unsafe for pedestrians, children, and animals. I have sent copious copies of photographs of this detritus to ADC. I note that the developer has recently been busy planting many trees and shrubs on the POS no doubt hoping that grass will soon start hiding the dangerous detritus. The present surface will undoubtedly damage any grass cutting devices. I agree. Both myself and our Group Head of Environment & Climate Change (Joe Russell-Wells) have walked the site and observed the state of the soil. As stated, we have concerns about the transfer of the open space to us given the site condition.
7. The mound, whose present height is believed to be too high, is itself located on earth which is 1 metre higher than the original level and is thus far too high. It completely obliterates the view from one house and badly affects the others. The height of the mound from the current ground level has been accepted as correct. However, it is proven that the ground level has

been raised then it is highly likely that we would request that the mound be reduced by the difference.

Was permission obtained to move thousands of tons of earth from the housing site to POS? No permission was gained to do this (other than to construct the mound)

Was permission obtained and authorities informed of the discovery, movement and disposal of asbestos to a site Drew Smith were offering the community? Is the resulting action legal? Have experts been asked what the risk of the asbestos leaching into the water table? This is not a breach of planning. Our Environmental Health department are aware of this, but I am not able to advise whether they will be pursuing this.

Was either of these activities stated in the application documentation? The mound was shown on the approved landscape drawing (P/70/19/RES) but otherwise, no.

To whom was the existence of asbestos reported? Any information on this that I hold was provided to you through the FOIA response. This response also included information from Environmental Health.

I believe Drew Smiths Verification Report would throw light on this situation. May I have a copy? I have previously seen this but due to the file size and the fact it was not a breach of planning, I did not retain it. The only items from it that I did retain were included in the Freedom of Information Act Request (FOIA) response to yourself. You can request a copy of the report from Drew Smith.

Is ADC really prepared to accept this offer in its present dangerous condition? As stated, my understanding is that we will not agree to take ownership of the open space unless it is in a satisfactory & completed condition and that there are no present breaches of planning permission.

There are many residents who are outraged by this behaviour and would wish that the asbestos to be removed completely and the land returned to its original height. Until that is achieved they will fight tooth and nail to prevent the POS being handed to Pagham Parish Council.

In retrospect, it seems likely that the developer obtained the POS land south of Summer Road simply in order to provide a site in which to deposit detritus, including dangerous material which had been detected on the Summer Lane site. The ploy to then hand it off as a 'gift' to ADC/PPC is a stunningly cynical move. The open space area formed part of the whole site area as part of the outline planning application when the land was in the ownership of other parties and that application was submitted by Hanbury Properties Ltd. Drew Smith then purchased the whole site.

I note that the applicant makes no mention of hazardous waste in the original application despite locals knowing of the existence of asbestos. It would therefore be interesting to know when they first reported its discovery. The only information I hold on this would have been released through the FOIA.

It would be really helpful if you could reply to this email and unfortunate if we felt we had to go the press/Full Council to obtain answers and intentions. Please also place a copy on the planning portal. I will do so along with my reply.

I note that while the POS has not yet been completed, many more than 45 dwellings have been occupied. We are also aware of this, and it is a further breach of planning permission. Drew Smith have been informed of this.

Thank you.

Yours sincerely

Colin Hamilton



Photo 1. Taken 5/2/21. Shows berm built around the deposition site with earth excavated from within it, with detritus already dumped in southern sector. Orange sheeting believed to be placed over site of 'unusual' material. No sign of 'ditch' to west of site. Despite flooded area, no danger to adjacent houses or PPC play field which appear to be at higher level. After filling of this area, earth from berms replaced in excavated area.



Photo 2 Taken 5/2/21. Area already filled with detritus. Orange sheet eventually also covered with detritus.



Photo 3. Taken 5/2/21. Indication that gardens of houses on Pagham Road are originally above level of deposition site. Note presence of blue asbestos decontamination wagon bottom right.



Photo 4 Taken 9/2/23 From ground level at ditch at boundary of house in Pagham Road indicating rise in level of ground on POS site, and dangerous surface detritus.



Photo 5 Taken 9/2/23 from south of Summer Lane showing dangerous detritus.



Photo 6 Taken 9/2/23 taken from telegraph pole seen in Photo 5 showing incline in land towards houses on Pagham Road with mound in background.

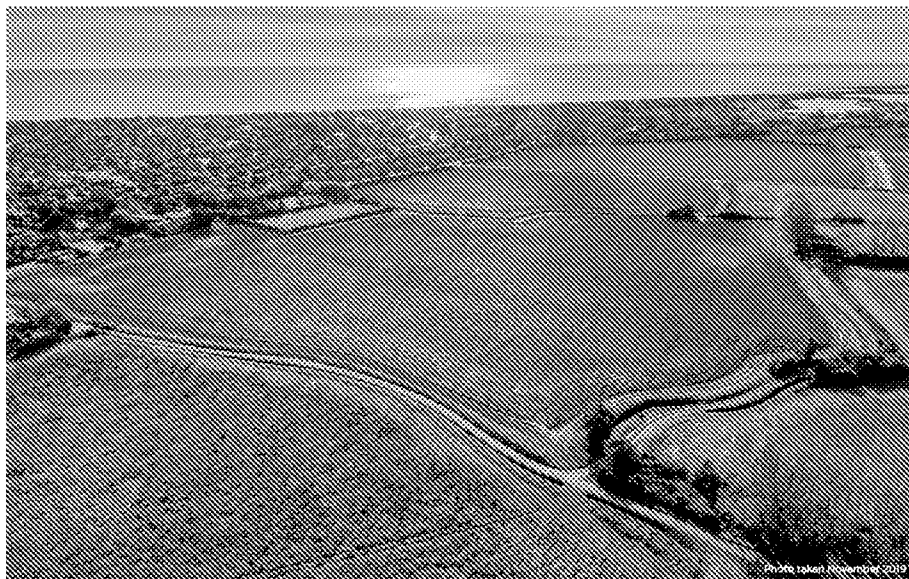


Photo 7 Taken 9/2/23 A shallow ditch along the fence line leading to drain/culvert in Summer Lane would help disperse flood water in the short term.





Photographs on this page taken by a resident.



Savills 002 If blown up indicates housing and PP playground above field level



IMG 1303 Shows (flooded) field level below housing fence line. The berm visible has been excavated from within the bounded area.

I will send image of Sanctus decontamination wagon separately as it is a very large file. This is not necessary as we are aware that ACM was buried on the site, but it isn't a planning breach.