

[REDACTED]

[REDACTED]

From: paul collins [REDACTED]
Sent: 11 November 2019 15:29
To: Simon Davis <Simon.Davis@arun.gov.uk>
Cc: Neil Crowther <Neil.Crowther@arun.gov.uk>; Daniel Vick <Daniel.Vick@arun.gov.uk>
Subject: RE: P/125/14/PL - 251 Pagham Road & Land R/O Pagham PO21 3QB & P/70/19 RES Land North of Summer Lane Pagham PO21 4NG

Dear Mr Davis

Thank you for your response which I have passed to Pagham Parish Council so that they may be aware of same when considering the ongoing REG 15 Neighbourhood Plan Submission and when making representations following the statutory notification to them to which you refer.

In respect of the latter please can you note for your file that Pagham Parish Council has formally requested that they be notified of such applications and/or alterations to same in those terms specified in paragraph 8(1) of Schedule 1 to the 1990 Act (as amended) and ensure that when sending your intended notification in this case you do so in accordance with paragraph 8(4) and (5) of Schedule 1 to the 1990 Act (as amended) and treat any subsequent representations you may receive in accordance with those terms specified in Article 25 of The Town and Country Planning (Development Management Procedure) (England) Order 2015.

I note your comments regarding the discharge of conditions 6, 9, 12, 15, 18, 20, 24, 25, 26 imposed on P/58/15 OUT but can only advise that this illustrates the Council's flawed approach to such matters generally and with other extant Outline Planning permissions in Pagham in mind I can only respond by explaining (yet again) why this is the case and important.

As a matter of law the only matters reserved for later determination by ADC on P/15/18 OUT are those listed in Condition 1 which were (a) Layout; (b) Scale; (c) Appearance; and (d) Landscaping and Article 2 of the Town and Country Planning (Development Management Procedure) (England) Order 2015 defines those matters as follows:

"layout" means the way in which buildings, routes and open spaces within the development are provided, situated and orientated in relation to each other and to buildings and spaces outside the development

"scale" except in the term 'identified scale', means the height, width and length of each building proposed within the development in relation to its surroundings

"Appearance" means the aspects of a building or place within the development which determines the visual impression the building or place makes, including the external built form of the development, its architecture, materials, decoration, lighting, colour and texture;

"landscaping", in relation to a site or any part of a site for which outline planning permission has been granted or, as the case may be, in respect of which an application for such permission has been made, means the treatment of land

(other than buildings) for the purpose of enhancing or protecting the amenities of the site and the area in which it is situated and includes—(a) screening by fences, walls or other means;(b) the planting of trees, hedges, shrubs or grass;(c) the formation of banks, terraces or other earthworks; (d) the laying out or provision of gardens, courts, squares, water features, sculpture or public art; and (e) the provision of other amenity features;

“Access” in relation to reserved matters, means 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; where “site” means the site or part of the site in respect of which outline planning permission is granted or, as the case may be, in respect of which an application for such a permission has been made” and was not reserved in this case and was in law approved at outline stage as shown on the approved plan Site Access Drawing 120843/A/11 A site access drawing listed and posted on the Councils web file for P/58/15 OUT.

In this regard I can only note that Condition 3 of the Decision Notice for P/58/15 OUT wrongly states that *The development shall be carried out in full accordance with the following approved plans: DLA.1552.L003.01 Rev D; 120843/A/11 Rev C; 120843/A/05 Rev B; 120843/SK/13 Rev A; 120843/SK/14 Rev A; 120843/AT/A01 Rev A; 120843/AT/A02 Rev A; 120843/SK/15 Rev A; and the Ecological Assessment (April 2015) as the only approved plan is DLA.1552.L003.01 Rev D as all other drawings can only be indicative as they all relate to matters reserved for later approval by condition 1. It is also notable that Site Access Drawing 120843/A/11 Rev C listed is not on the file and that the only Access plan on the file is Site Access Drawing 120843/A/11 A .*

Therefore (and notwithstanding the wording of the other conditions wrongly worded and imposed on P/58/15 OUT) since P/70/19 RES is a reserved matters application it can (as a matter of law) only address those matters specified as reserved matters and no other matters and once again I would urge you to request that the applicant revise the description of the submitted application so that it deletes all reference to the discharge of any conditions other than the reserved matters specified in Condition 1. I also take this opportunity to remind you and/or reiterate that an application for reserved matters is subject to the statutory requirements relating to its determination under section 70(2) of the Town and Country Planning Act 1990 and section 38(5) and (6) of the Planning and Compulsory Purchase Act 2004

As you are aware whilst the reserved matters specified by condition on any Outline planning permission and the time limit for its implementation cannot be varied by way of an application under S73 all other conditions can be so amended or deleted as can matters which are subject to any associated S106 Planning Obligations and it is therefore extremely important that all parties are very clear about what does and does not form part of any reserved matters application.

In this regard I will, therefore, advise Pagham Parish Council that when and if they are notified by ADC with regard to any alterations to the submitted application under P/70/19 RES they only consider and comment on those reserved matters which are the subject of that application and that any comments they have regarding matters pertaining to the discharge or otherwise of conditions and/or the S106 Planning Obligations are made separately when and if the opportunity arises.

Thank you for your assistance

Paul Collins BA (Hons) DipTP

From: Simon Davis [<mailto:Simon.Davis@arun.gov.uk>]

Sent: Monday, November 11, 2019 12:33 PM

To: paul collins [REDACTED]

Cc: Neil Crowther <Neil.Crowther@arun.gov.uk>; Daniel Vick <Daniel.Vick@arun.gov.uk>

Subject: RE: P/125/14/PL - 251 Pagham Road & Land R/O Pagham PO21 3QB & P/70/19 RES Land North of Summer Lane Pagham PO21 4NG

Dear Mr Collins,

To answer your queries:

P/125/14/PL

My colleague Rosemarie Dannatt is dealing with this matter and I have notified her of your email.

P/70/19/RES

I can confirm that the applicant is not seeking to discharge conditions through the Reserved Matters application (and that in any case, we would not allow such to take place). I accept that condition 08 does require the approval of details prior to commencement and therefore must be discharged through our discharge of conditions application. However, I confirm, that we will not allow the discharge of this condition through this process. In respect of the other conditions (6, 9, 12, 15, 18, 20, 24, 25, 26), these are all worded "*Detailed plans and particulars of the Reserved Matters submitted to the Local Planning Authority pursuant to Condition no1 shall include*" and therefore, they are only included in the description for information as to the content of the submission.

We are awaiting a submission of some further details and amendments to the plans. Once these are received, we will be issuing a consultation request to the Parish and also re-advertising the application by way of new site notices.

Kind Regards

Simon J Davis MRTPI | Principal Planning Officer, Planning Department, Directorate of Place, Arun District Council |
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Visit Arun's web site at www.arun.gov.uk



Save the environment - think before you print.

From: paul collins [REDACTED]
Sent: 07 November 2019 16:35
To: Simon Davis <Simon.Davis@arun.gov.uk>; Claire Potts <Claire.Potts@arun.gov.uk>
Cc: Neil Crowther <Neil.Crowther@arun.gov.uk>
Subject: P/125/14/PL - 251 Pagham Road & Land R/O Pagham PO21 3QB & P/70/19 RES Land North of Summer Lane Pagham PO21 4NG

Dear Mr Davis

I act for PPC in this matter.

P/125/14 PL

You will be aware of the outstanding correspondence regarding compliance or otherwise with conditions on this implemented planning permission and confirmation of compliance or otherwise with the S106 Planning obligations. The resolution or otherwise of these potential breaches of planning control are relevant and material to your current deliberations with regard to P/70/19 RES and any further representations that PPC may choose to make regarding the planned alterations to that submitted but not yet determined application so may we ask that ADC respond with an answer or confirm when we might receive one.

P/70/19 RES

Firstly it is noted that the description of this application now reads: *Approval of reserved matters following outline consent P/58/15/OUT for 90 No. dwellings. Also seeking to address the terms of planning conditions 6 (Phasing), 8 (ecology), 9 (Surface Water), 12 (Vehicular Access), 15 (Parking), 18 (Travel Plan), 20 (Landscape Management), 24 (Parking Control), 25 (Dwelling Parking) and 26 (Materials)*

As you are no doubt aware the reserved matters in this case are (a) Layout; (b) Scale; (c) Appearance; and (d) Landscaping and the

reserved matter applications and condition discharge consents are two separate matters which are subject to two separate and different development management procedures and determination timescales under Parts 4,5 and 6 The Town and Country Planning (Development Management Procedure) (England) Order 2015 and therefore different appeal rights in the event of any disputes. The determination of these separate matters is also guided by different PPG and different legal requirements. i.e. section 70(2) of the Town and Country Planning Act 1990 and section 38(6) of the Planning and Compulsory Purchase Act 2004 apply to the determination of reserved matter applications and appeals but do not apply to discharge consent applications. Given that the reserved matter application is pursuant to an outline planning permission granted some 3 years ago contrary to the then development plan but now falls to be determined in accordance with the development plan as it now stands or will stand at the date of determination and the matter has already been under consideration for some 4 months and disputes are arising it seems to PPC that it would be lawfully proper for the discharge consent applications to be separated from the reserved matter application so that each may then be determined appropriately.

Secondly you will be aware that the site is subject to two S106 Planning Obligations which seek to achieve the delivery of similar and symbiotic obligations with P/125/14PL above. You are also aware that PPC is seeking to ensure that the two schemes are compatible and sympathetic with each other as part of a planned approach to the delivery of this important housing site and that PPC is currently negotiating changes to the Land Transfer arrangements with Joe Russel Wells of ADC regarding the area to be set aside as ANOGS under the S106. Therefore PPC requests that when you are negotiating and agreeing changes to any of the reserved matters as part of the reserved matter applications with the applicant you a) ensure that such changes do not prejudice the ability to enforce the S106 Obligations and b) ensure that PPC is kept fully involved and given the opportunity to comment before any decisions are made.

Happy to meet with you if you think it would be useful but otherwise would be grateful if I could receive a response asap so that I can advise my clients further as they are committed to preparing and submitting a Development Management NP to ADC in January 2020 and these matters are relevant to their deliberations in this regard.

Thanks

Paul Collins BA (Hons) DipTP