

Lisa Coney

From: David Brookwell <[REDACTED]>
Sent: 22 July 2013 16:07
To: Lisa Coney
Subject: Fw: application o P84/12 - new access Beach Road

----- Original Message -----

From: Susan Leeson
To: 'David Brookwell'
Cc: Robert Enticott ; Daniel Vick ; Delwyn Jones
Sent: Wednesday, March 20, 2013 1:27 PM
Subject: RE: application o P84/12 - new access Beach Road

Dear Mr Brookwell

I have now a written response from Delwyn Jones as follows:

The question is was ref P/44/09 implemented by digging a trench ? If so then further applications may be irrelevant because ref P/44/09 could be implemented/progressed.

I think you have grounds to say that the trench dug was not a proper implementation because:-

1. There are conditions precedent to implementation of the development.
2. Works may have been done to seek to implement the development by trench digging, but these works won't be enough to preserve the permission because of conditions precedent.
3. These are conditions numbers 2,,3,4,5,6,7,8,9,10,.
4. These are conditions precedent because they all require ,in the case of 2,3,4,5,6,7,8 details to be submitted before development starts and conditions 9 and 10 prohibit occupation of buildings before certain details are approved.
5. The rule is very simply that some conditions precedent are so important that development cannot go ahead without compliance with them, whilst others are less important and can be approved/complied with later or enforced.
6. The developer, not surprisingly, alleges that these conditions aren't that important so as to stop implementation.
7. I suggest that they are important because these conditions were imposed because of these important reasons:-

[2] relates to visual quality of the buildings

[3] relates to amenity

[4] relates to amenity

[5][6][7] because they all relate to drainage ,flood prevention, and access

8. Your previous report on ref P/44/09 emphasises the importance of these conditions because the area is one of Special Character{Amenity conditions} and is subject to flooding [drainage and flooding conditions].
9. They are so important that they can prevent the works being a full implementation of ref P/44/09.
10. Finally the Greyfort case copied and discussed with you results in a defeat for the developer because the works implemented in that case weren't enough to implement the development.
11. Finally too since Reprotech v E Sussex 2001 there is no estoppel in planning law, so if the developer sought to argue this on appeal, challenge the authority can argue that there is only one source of challenge viz a CLOPUD and any appeal to the Secretary of State /PINS.

The conditions precedent are too important and fundamental to enable the development to be implemented without compliance with them.

Therefore, we are of the opinion that development has not commenced. With regard to P/84/12 as previously discussed with you, the application will be refused as there is no valid approval for the access to be amended. The application should not have been registered, and therefore, on that basis, as previously agreed, if you withdraw this application, we are prepared to offset the fee payable on P/84/12 against a renewal of the unimplemented application P/44/09.

Please can you inform me on Monday 25th March 2013 if you are withdrawing the application or we will refuse the application.

Regards

Susan Leeson

From: David Brookwell [REDACTED]
Sent: 19 March 2013 11:02
To: Susan Leeson
Cc: Robert Enticott
Subject: application o P84/12 - new access Beach Road

Dear Mrs Leeson

Thank you for your e-mail.

I did ask specifically why there was a delay in issuing a decision notice on the application for the re-alignment of Sandy Road and the new access to Beach Road as the matter is not related at all to the development of the car park site and I would welcome a specific response to this please.

With regard to the outstanding matter of the car park site I must say that I am very surprised that after having George Ide's letter for approximately 3 months it is only just being referred to your legal department. You and Dan Vick gave me your own views when we met last November but as I see it this is now a matter of interpreting the law and therefore it should be a matter between the respective lawyers.

In view of the time that has elapsed I think that the best way forward is to have a meeting with you and Delwyn Jones to resolve the matter.

Yours sincerely

David Brookwell
<http://www.arun.gov.uk>
NLPG UPRN 100062237016
DX 57406 Littlehampton

Important Notice This e-mail is intended exclusively for the addressee and may contain information that is confidential and/or privileged. If you are not the intended recipient (or authorised to receive it for the addressee), please notify the sender and delete the e-mail immediately; using, copying, or disclosing it to anyone else, is strictly prohibited and may be unlawful. Any views, opinions or options presented are solely those of the author and do not necessarily represent those of Arun District Council. The information in this e-mail may be subject to public disclosure under the Freedom of Information Act 2000, therefore we cannot guarantee that we will not provide the whole or part of this e-mail to a third party. The Council reserves the right to monitor e-mails in accordance with relevant legislation. Whilst outgoing e-mails are checked for viruses, we cannot guarantee this e-mail is virus-free or has not been intercepted or changed and we do not accept liability for any damage caused. Any reference to "e-mail" in this disclaimer includes any attachments.

No virus found in this message.

Checked by AVG - www.avg.com

Version: 2013.0.2904 / Virus Database: 2641/6187 - Release Date: 03/18/13