

FULL COUNCIL – 13 JULY 2022

AGENDA ITEM 3 – PUBLIC QUESTION TIME – ORDER IN WHICH THE CHAIR OF THE COUNCIL WILL INVITE QUESTIONS BELOW RECEIVED IN WRITING IN ADVANCE OF THE MEETING

1. From Mrs Smith to the Chair of the Planning Committee, Councillor Chapman
2. From Mr Pivett to the Chair of the Planning Committee, Councillor Chapman
3. From Mrs Smith to the Chair of the Planning Committee, Councillor Chapman
4. From Mrs Smith to the Chair of the Planning Committee, Councillor Chapman

FULL DETAIL OF THE QUESTIONS TO BE ASKED IS DETAILED BELOW

Note, the Chair will:

- invite questions from members of the public who have submitted in writing their questions in line with the Council's Constitution.
- explain that the questions received will be answered by the Chair of the Council
- confirm that Public Question Time allows Members of the public to ask one question at a time and that a maximum of one minute is allowed for each question;
- state that questions will be invited in the order in which they have been received and that if there is time remaining from the 15 minutes allowed for Public Question Time, questioners will be allowed to ask a supplementary question.

At the meeting, the Chair changed the order of the questions to be asked as outlined below:

QUESTION ONE

From Mr Pivett to the Chair of the Planning Committee, Councillor Chapman

Question

Is Arun District Council or its Officers going to pursue enforcement action against Bellway Homes or its contractors for blatantly abusing both Public Bank Holidays and the subsequent environmental health hazards that were endured at Hook Lane in Pagham by residents, contrary to Planning and Environmental Law over the Jubilee 4 day celebrations.

Response

The Planning Department were first made aware of concerns from local residents just before the June Bank Holiday weekend and made immediate contact with the site manager. During these discussions, the Council were advised that minor site preparatory works were taking place. On the basis of these discussions a meeting was arranged with the site manager for Monday 6 June 2022.

However, it appears that despite these discussions further more intensive works took place over the that weekend which the Council were made aware of on Monday 6 June 2022. A site visit was carried out on the afternoon of the 6 June to ascertain what works were taking place on site.

Following the site visit and a review of the planning approval, officers contacted the developers and advised that development had commenced in breach of pre-commencement conditions. Therefore, the Council requested that all works ceased immediately on the site until such time as the outstanding pre-commencement conditions were fully discharged. The developers were also advised that should development continue on site prior to the discharge of the pre-commencement conditions, then formal enforcement action would be taken through the service of a Temporary Stop Notice. Following the Council's communication with the developers we have continued to monitor the site and can confirm that no further works have taken place on site.

The complaints relating to noise and dust have also been raised with the Council's Environmental Health Team who have undertaken site visits and served a Notice under the Control of Pollution Act (COPA). This notice required that any noisy works on site should only take place between the hours of 0800-1800 Monday – Friday; 0800-1300 Saturdays; and at no time on Sundays or Bank Holidays. However, during the site visit by the Council's Environmental Health Officer, they did not identify any dust impact and as such this was not included within the scope of the COPA notice.

Given the outstanding pre-commencement conditions the position of the Council remains that no development should be taking place at this time. Should development re-commence I would encourage local residents to contact the Planning Department immediately.

Supplementary Question

The answers provided fail to take into consideration what happened in Hook Lane and it appears that no punitive action will be taken against the developers to remind them of their obligations. Environmental Health had advised residents of Hook Lane that fines of up to £50k could be imposed on developers over what actually took place. I do not believe that anyone here realises the severity of the

dust issues that took place and made sure that most celebrations for the Jubilee were ruined, celebrations that were a once in a lifetime opportunity to enjoy. I feel that the Council should be taking punitive action along with the residents of Hook Lane to address this with financial punishment applied to such companies to remind them of their obligations.

Supplementary Response

I can understand Mr Pivett's case, however, we have to be extremely careful when talking about taking civil action to raise a fine in such matters. Anything I say here could be taken as prejudicial to that action I believe, and I ask the Monitoring Officer, to confirm that that would be the case.

The Chair confirmed that the Monitoring Officer confirmed that this would be the case.

QUESTION TWO

From Mrs Smith to the Chair of the Planning Committee, Councillor Chapman

Response

What is the current legal status of the access to the site, known as, 'Land West of Fontwell Avenue?' (AL/121/16/PL) Does it now benefit from the 4-year rule and is it going to stay as it is now for ever? (In this case the 2-year rule for operational use.)

Response

Planning application AL/121/16/PL was approved subject to conditions on 1/2/2018. A further application to vary some of the conditions (2, 10, 11 and 12) was subsequently submitted under reference AL/116/18/PL. This was approved on 22/03/2019. Condition 10 of the original permission was amended by AL/116/18/PL and requires visibility splays to be provided and maintained.

The "four year rule" is a phrase which considers whether enforcement action can be taken about certain types of development carried out in breach of planning control. The "rule" means that a development that has been carried out becomes immune from enforcement action after 4 years if no enforcement action has taken place in that time.

In this case, the rule would start on the day the building was first occupied. Council records indicate that the building was occupied in April 2021. Therefore, if the access has not been constructed in accordance with the approved plans it is not yet immune from enforcement action.

A breach of condition notice (BCN) will be served unless the developer completes the approved access within a reasonable time period.

The question mentions the “2-year rule for operational use”. But to my knowledge, there is no “2-year rule” in planning.

A site visit has very recently been undertaken and the access has not been finished in accordance with the approved details. The Enforcement Team will now be contacting the developers to give them a time period in which to complete this. If it is not completed within this time, a breach of condition notice will be served.

Supplementary Question

How long will it be before this happens? They have already been living on site in caravans since the planning permission was first passed, so that is now over 5 years.

Supplementary Response

I will not take some of the points made by Mrs Smith but what I will do is to address how long this will take. This will very much depend upon the actions of the developer. If he fails to comply with these reasonable demands, things could happen very quickly, although I cannot enumerate the number of days, but things will happen very quickly as I have already pointed out in the answer. A breach of control notice will be served unless the developer completes the approved access within a reasonable time period.

QUESTION THREE

From Mrs Smith to the Chair of the Planning Committee, Councillor Chapman

Question

Why is Mr. Norgate, the developer of the second plot, being allowed to continue building his houses on site AL/122/17/PL, when his planning permission expired before his documents were all passed?

Response

This forms part of the larger site relating to question 1. This site is the middle plot of three.

Planning permission AL/122/17/PL for two dwellings on this plot was approved in 2018. The lawful commencement date of this permission was February 2021.

An investigation has begun to try and establish when the development commenced and if this was done lawfully. If this concludes that the development did not commence lawfully the applicant will be advised of their options.

Supplementary Question

As the Councillor has just outlined, this is the second or middle site of three. The third site was also given planning permission, but that planning permission has now expired. The other two sites, the first site and the middle site, were varied by condition to change the layout in order for heavy vehicles to turn round. It was changed by providing an extra access onto the A29. Now that that site is not going to be developed that access has gone but so has the hammer head turning space. What is the arrangement for heavy vehicles to turn round?

Supplementary Response

I respectfully decline to answer that as it does not relate to the original question that was put, it is not a supplementary question. However, I will undertake to get Mrs Smith an answer outside the process of this meeting.

QUESTION FOUR

From Mrs Smith to the Chair of the Planning Committee, Councillor Chapman

Question

Adherence to Conditions on Planning Applications are legal requirements. Why is it then that certain conditions on AL/116/18/PL, (also AL/50/17/DOC and AL/21/21/NMA have not been complied with, have not been varied by application, and seem to have disappeared into the air?

Response

I can confirm that officers from the Planning Department will respond to Mrs Smith by 27 July 2022, as required by the Constitution, to confirm whether there are planning conditions that are not currently complied with or discharged on AL/116/18/PL and, if there are, what the Council intends to do about this.

Supplementary Question

Can you confirm that the situation with the first two questions I have asked will continue as it is in terms of entry and exit to the site. It is rather an immediate problem.

Supplementary Response

I have nothing further to add in this meeting.