

Arun District Council

REPORT TO:	PLANNING COMMITTEE 29 September 2022
AGENDA ITEM:	
SUBJECT:	Planning Application AL/72/22/PL - Rock House Westergate Street
LEAD OFFICER:	Daniel Bainbridge Group Head of Law and Governance
LEAD MEMBER:	N/A
WARDS:	Barnham
CORPORATE PRIORITY / POLICY CONTEXT / CORPORATE VISION: Council scheme of delegation and Planning Protocol as set out in the constitution (Part 7 section 2 Para 2.1.2).	
DEPARTMENTAL POLICY CONTEXT: N/A	
FINANCIAL SUMMARY: N/A	

1. PURPOSE OF REPORT

The purpose of this report is to explain why a determination of a planning application made by an officer in error should be determined by committee.

2. RECOMMENDATIONS

To consider the report and recommendations of the Planning Officer.

1. EXECUTIVE SUMMARY

- 1.1. This application was considered and determined by an officer. It has come to light that the application could only have been determined by committee because it is excluded from the delegation to officers. The matter is now brought to committee for a determination.

2. DETAIL

- 2.1. The Application was submitted by an Architect acting as agent for the property owner in May 2022. It was validated in July 2022 with a decision due date of 1st September 2022. The application was publicised in accordance with the council's normal procedures, part of which involving notification to the Parish Council, in this case Aldingbourne Parish Council. On 11th August 2022, the Parish Council responded giving their support for the application proposals. However, as the application progressed, it became apparent that the proposals, which involved changes to a Listed Building and the loss of employment floorspace were substantially in breach of a number of Local Plan policies and

were likely to be recommended for refusal. The agent was advised and invited to withdraw the application, consider officers' concerns and then re-submit a suitably amended scheme. Initially, the agent agreed with this proposed course of action but, after taking instruction from the client, the agent advised that they wanted the application to be determined in its then current form. The application was duly refused planning permission by officers. However, as the Parish Council had previously supported the application, under Council procedures, the application should have been an application referred to the Planning Committee for determination.

- 2.2. The application was determined by the Group Head of Planning (and Officers acting under their delegated authority) on 1st September 2022. That determination was outside of the delegated powers of the officer.
- 2.3. The matter was referred to Arun legal services and to the Monitoring Officer. The legal advice and the advice of the Monitoring Officer is that the decision in on 1st September 2022 should be treated as void. The Officer who made the decision did not have delegated authority to make the decision.
- 2.4. Committee should treat the application as if the original decision had not been made.

3. OPTIONS / ALTERNATIVES CONSIDERED

- 3.1. It was considered that to do nothing was not an option as the decision goes to the heart of the Council's planning protocol and standards of conduct. Consideration was given to whether the decision could be revoked. It was decided that as there was no valid decision, there was no decision to revoke.

4. CONSULTATION

- 4.1. The agent has been notified. Any responses (or lack of response) to the notification will be relayed to the committee.

5. FINANCIAL CONSIDERATIONS

- 5.1. There are no financial implications for the purposes of this report.

6. RISK ASSESSMENT CONSIDERATIONS

- 6.1. There is a risk that the public may or anyone else might challenge the decision as not being in accordance with the highest standards of propriety as set out in the Council constitution.

7. COMMENTS OF THE GROUP HEAD OF LAW AND GOVERNANCE & MONITORING OFFICER

- 7.1. This matter is covered by Part 7 section 2 Para 2.1.2 (Officer scheme of delegation) which states that the officer scheme excludes applications which prior to its determination is subject to a written representation from the Parish Council, which is in conflict with the recommendation of officers.

7.2. The issue here is that there is no valid planning decision and whilst the applicant retains the ability to appeal on grounds of non-determination they are not otherwise able to appeal against the putative reasons for refusal.

8. HUMAN RESOURCES IMPACT

None for the purposes of this report.

9. HEALTH & SAFETY IMPACT

None for the purposes of this report.

10. PROPERTY & ESTATES IMPACT

None for the purposes of this report.

11. EQUALITIES IMPACT ASSESSMENT (EIA)

None for the purposes of this report and for the purposes of the determination the relevant considerations are contained in the officer report.

12. CLIMATE CHANGE & ENVIRONMENTAL IMPACT

None for the purposes of this report and for the purposes of the determination the relevant considerations are contained in the officer report.

13. CRIME AND DISORDER REDUCTION IMPACT

None for the purposes of this report and for the purposes of the determination the relevant considerations are contained in the officer report.

14. HUMAN RIGHTS IMPACT

None for the purposes of this report and for the purposes of the determination the relevant considerations are contained in the Officer report.

15. FREEDOM OF INFORMATION / DATA PROTECTION CONSIDERATIONS

None for the purposes of this report and for the purposes of the determination the relevant considerations are contained in the Officer report.

CONTACT OFFICER:

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Job Title: Group Head of Law and Governance and Monitoring Officer

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BACKGROUND DOCUMENTS: *Planning Officer Report January 2022*