

Dummer Parish Council

Oakdown Farm Gateway Warehouse Planning Application (20/02586/FUL)

Pre-Action Protocol letter issued to Basingstoke and Deane Borough Council,

Dummer Parish Council has issued a letter to Basingstoke and Deane Borough Council in accordance with the Pre-Action Protocol for Judicial Review on 25th May 2021. Having obtained legal advice, Dummer Parish Council consider that the decision of Basingstoke and Deane Borough Council's Development Control Committee, in respect of planning application no. 20/02586/FUL is unlawful. Dummer Parish Council has serious concerns about material errors of law and fact affecting the resolution, which it has brought to Basingstoke and Deane Borough Council's urgent attention.

Q and A

Q. What was the business of the Basingstoke and Deane Borough Council Development Control Committee on 7 April 2021?

It considered two planning applications and concluded that the OUTLINE application for four Warehouse should be REFUSED. The FULL application for a single large warehouse should be APPROVED but the decision letter was not issued. The Parish Council is challenging the decision on the FULL application.

Q. What Advice did the Parish Council take prior to issuing the letter to Basingstoke and Deane Borough Council

Dummer Parish Council sought the advice of a Planning Specialist Solicitor and then followed up with Planning Barrister

Q. What are the reasons the Parish Council believes the decision is lawful?

The Planning Solicitor identified an issue of material fact and the Barrister confirmed this and noted further non-adherence to Planning Policy

Q. What action by Basingstoke and Deane Borough Council has Dummer Parish Council requested?

Dummer Parish Council has requested that the Development Control Committee meeting is re-run to correct the errors before a decision letter is issued. This would avoid the expense that would be incurred if the borough has to defend a Judicial Review.

Q. When will a decision to rerun the Development Control Meeting be made by Basingstoke and Deane Borough Council

Dummer Parish Council has asked that Basingstoke and Deane Borough Council responds within 14 days. Basingstoke and Deane Borough Council has indicated that this will not be possible in this timescale.

Q. Can Basingstoke and Deane Borough Council re-run the meeting?

The Basingstoke and Deane Borough Council Planning Team did not issue a Decision Notice because five local MPs and Dummer Parish Council in conjunction with CAGE (a local Community Group) have requested that the decision is called-in to the Secretary of State, and Basingstoke and Deane Borough Council is therefore in the unusual position that it is able to revisit this decision.

Q. Why has Dummer Parish Council taken this action?

This application will have a severe impact on residents of the Parish and errors have been identified. Dummer Parish Council considered that Basingstoke and Deane Borough Council must be held to account. It is hoped that in order to avoid a huge cost of a Judicial Review to all residents in the Borough, the application will be revisited by development Control at minimal cost.

Q. What happens next?

There are several scenarios:

- a) Basingstoke and Deane Borough Council revisits the decision
- b) The Secretary of State agrees to a 'Call-In' (The application will be then determined not on planning law but on different strategies known as Caborn Principles)
- c) A decision notice is issued and the Development can commence (subject to legal agreements and fulfilment of the conditions that have already been identified). At this point Dummer Parish Council will consider further legal action.

Caborn Principles

The list of instances when the Secretary of State might decide to use call-in powers is sometimes known as the "Caborn principles" because they were first announced by the then Planning Minister, Richard Caborn, in response to a PQ in June 1999 (those in square brackets were added later):

Such cases may include, for example, those which in his opinion:

- may conflict with national policies on important matters.
- [may have significant long-term impact on economic growth and meeting housing needs across a wider area than a single local authority];
- could have significant effects beyond their immediate locality.
- give rise to substantial cross-boundary or national controversy.
- raise significant architectural and urban design issues; or
- may involve the interests of national security or of foreign Governments.

However, each case will continue to be considered on its individual merits.

The criterion of calling-in applications which "may have significant long-term impact on economic growth and meeting housing needs across a wider area than a single local authority" was added in October 2012.