

Supplementary question (Council 20th September 2023)

Mr Lewis' supplementary question was as follows:

"If that was deemed appropriate, why was no such direction given to a smaller development DM21/3875 in Haywards Heath which was rejected despite similar objections that were raised for SA13? There was no mention of legal consequences of a rejection on that albeit smaller development."

As indicated by the Chairman, the Monitoring Officer was asked to provide a written response to this question.

This (and the previous question) demonstrate the very fact-specific nature of planning decisions. As I noted in my response to the original question, the Council cannot look into the merits of any decision made by its regulatory committees, including any advice which may or may not have been given. This response therefore seeks to continue to address the procedural matter of the role of the Chairman.

The Local Planning Authority is required by law to determine planning applications in accordance with the statutory development plan, unless material considerations indicate otherwise. This is the legal basis for what is commonly described as the "plan led" system.

The SA13 South of Folders Lane site is a site allocated in the Council's Sites Allocation DPD, which forms part of the statutory development plan. There was, therefore, a statutory presumption in favour of granting permission which accords with that allocation.

Allocation in the statutory development plan is therefore a very significant planning consideration and carries substantial weight in favour of granting permission. Any proposal to refuse (and override the presumption in law) would, therefore, require significant and well evidenced reasons for refusal, as indicated by the Chair.

In contrast, the site under consideration in DM/21/3875 (Land at Anscombe Woods Crescent) carried no such designation. This means that the starting point for determining the application was very different: there was no statutory presumption in favour of granting permission and the determination of the application would therefore rest simply upon balancing the considerations for and against the proposal.

The officer's report in that case is very clear that the determination for the committee was balanced. Indeed, in the Chairman's opening remarks, he also noted that it was a "balanced case" which could be decided "either way", having briefly referred to a historical permission granted at a time when the Council did not have an up-to-date development plan (i.e. noting that the planning considerations for the application before the committee were different to that historical case).

The officer's view was that overall, the material considerations weighed in favour of granting planning permission.

As I indicated in response to the original question, the role of the committee is to weigh the material planning considerations and in doing so decide whether those considerations, considered against the requirements of the District Plan, weighed in favour of grant, or in favour of refusal. The Committee in that case disagreed with the weight to be given to these considerations (as indicated in the officers' report): the Committee decided that the physical characteristics of the proposal (in particular the adverse impact of the height and scale of the proposal) outweighed the benefits and therefore refused to grant permission.

That was an exercise of planning judgement which was open to the committee. Given all of this, it is unsurprising that the Chairman did not in that case feel the need to emphasise any particular potential consequences of any decision which the Committee might reach.