Recommendation Report for Planning Permission for Works or Extension to a Dwelling

REF NO: **AL/72/13/**

LOCATION: Cherrywood
Westergate Street
Westergate

PROPOSAL: To erect one pair of timber entrance gates to the east elevation

SITE AND SURROUNDINGS

DESCRIPTION OF APPLICATION	As above. The proposed gates and mounting posts will be approximately 1.8 metres in height. They will be positioned across an existing 4 metre wide opening to the front of the site that is served by dropped kerb access.
SITE AREA	Approximately 615 square metres.
TOPOGRAPHY	Predominantly flat.
TREES	A small tree to the front of the neighbouring property, Roman Waye, may have to be pruned in order to accommodate tha gates. This tree is not the subject of a Preservation Order, nor is it considered to be worthy of such a status.
BOUNDARY TREATMENT	Approximately 1 metre high brick wall and fencing to the front of the dwelling with adjacent hedging up to approximately 2 metres in height.
SITE CHARACTERISTICS	The site is occupied by a detached chalet style dwelling which has surfaced off street parking to the front which is accessed from Westergate Street via a dropped kerb.
CHARACTER OF LOCALITY	The site is located on a Class A Road that is flanked by an informal arrangement of dwellings of a mixture of designs and scales. Boundary walling/fencing runs adjacent to the pavement to the front of a number of the residential sites.

RELEVANT SITE HISTORY

None.

REPRESENTATIONS

Representations received:

None.

Comments on Representations received:

None.

CONSULTATIONS

WSCC Strategic Planning

Consultations responses received:

COUNTY HIGHWAYS: FIRST CONSULTATION: There would be no concerns with the proposed gates; however I would request the gates are set back further from the carriageway edge. Ideally the gates should be set back a maximum of 5 metres from the highway and open inwards of the site. I am content that this can be secured via condition and a further plan is not required.

SECOND CONSULTATION: We have no objection to the principle of gates in this location on the understanding that the gates are set back ideally 5 or at the least 3 metres from the road. This is to ensure that vehicles can be driven off the highway before the gates are opened. If that is not to be the case then we would wish to object to this proposal as the A29 in this location is heavily trafficked and introducing a facility that could interrupt the free flow of traffic (by a vehicle having to stop whilst the gates are opened) would not be something we would wish to see.

Comments on Consultation responses:

Noted. The repositioning of the gates would fundamentally alter the application and would not be something that could be achieved through the use of a condition. The applicant has been informed of the concerns raised and is aware of the alterations that would be required if they were to submit a revised application.

POLICY CONTEXT

Within Built-Up Area
Class A Road

DEVELOPMENT PLAN POLICIES

Arun District Local Plan:	GEN2	Built-up Area Boundary
	GEN7	The Form of New Development

PLANNING POLICY GUIDANCE

NPPF	National Planning Policy Framework

POLICY COMMENTARY

The above policies combine to describe the criteria against which the application will be assessed particularly with regard to visual and residential amenity.

The Development Plan consists of the Arun District Local Plan 2003.

Paragraph 214 of the NPPF ensures that specific policies in Arun District Local Plan 2003 can carry weight. The weight afforded to the policies with Local Plan policies can be assessed according to their level of consistency of the various policies with the National Planning Policy Framework. It should be noted that the NPPF states that weight is given to individual policies and not to the plan as a whole.

NPPF Paragraph 216 confirms that weight can be given to policies in emerging plans following publication. The Council published the Draft Arun Local Plan in July 2012 and this is a material consideration in the determination of this planning application. A pre-submission Plan has yet to be endorsed and published. Following publication of a pre-submission draft, there is required to be a formal public consultation, resolution of objections, examination and formal adoption. At this time, the emerging Local Plan is afforded very limited weight in terms of the decision making

process.

DEVELOPMENT PLAN AND/OR LEGISLATIVE BACKGROUND

Section 38(6) of the Planning and Compulsory Purchase Act 2004 states:-

"If regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise."

The proposal is considered to conflict with relevant Development Plan policies in that it would have an unacceptable impact upon highway safety.

OTHER MATERIAL CONSIDERATIONS

It is considered that there are no other material considerations to warrant a decision otherwise than in accordance with the Development Plan and/or legislative background.

CONCLUSIONS

The proposed gates will face directly onto the pavement and will therefore have a clear visual presence within the street scene. It is noted that the pavement is bordered, in many places, by walling and fencing of comparable height to the proposed gates and also that there is already a boundary wall and hedging to the front of the site. It is therefore considered that the proposed gates will be in keeping with the character and appearance of the surrounding area.

Given that the gates will serve an access taken from a Class A road it is considered imperative that they do not have the potential to interfere with the flow of traffic using the road. Given the positioning of the gates directly adjacent to the highway, any vehicles gaining access to the site will need to stop in the main road whilst the gates are opened. It is considered that this would result in an unacceptable impact upon highway safety, presenting a hazard that may result in an accident. This is on the basis of comments provided by County Highways.

It is therefore recommended that the application is refused for the following reason..

HUMAN RIGHTS ACT

The Council in making a decision, should be aware of and take into account any implications that may arise from the Human Rights Act 1998. Under the Act, it is unlawful for a public authority such as Arun District Council to act in a manner, which is incompatible with the European Convention on Human Rights.

Consideration has been specifically given to Article 8 (insert number and description), Article 1 of the First Protocol 8 (right to respect for private and family life). It is not considered that the recommendation for refusal of permission in this case interferes with applicant's right to respect for their private and family life and their home, except insofar as it is necessary to protect the rights and freedoms of others (in this case, the rights of neighbours). The Council is also permitted to control the use of property in accordance with the general interest and the recommendation for refusal is considered to be a proportionate response to the submitted application based on the considerations set out in this report.

DUTY UNDER THE EQUALITIES ACT 2010

Duty under the Equalities Act 2010

In assessing this proposal it has been determined that its refusal would not result in any unacceptable impacts upon those people with the following protected characteristics (age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex or sexual orientation).

RECOMMENDATION

REFUSE

1 The proposal would be likely to attract standing vehicles which would interrupt the free flow of traffic on the public highway and thereby add to the hazards of road users at this point in conflict with policy GEN7 of the Arun District Local Plan.

2 INFORMATIVE: Statement pursuant to Article 31 of the Town and Country Planning (Development Management Procedure)(England) (Amendment No. 2) Order 2012. The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern with the proposal and discussing those with the Applicant. However, the issues are so fundamental to the proposal that it has not been possible to negotiate a satisfactory way forward and due to the harm which has been clearly identified within the reason(s) for the refusal, approval has not been possible.