Recommendation Report for Planning Permission

REF NO: **EG/59/12/**

LOCATION: 17 Elm Grove South
Barnham

PROPOSAL: Laying of permeable hardstanding, A/C unit/enclosure, handrail and external lighting

SITE AND SURROUNDINGS

DESCRIPTION OF APPLICATION	This application is retrospective to remove the front garden of the former school caretakers house, lay hardstanding to provide off street car parking. Also to provide an air conditioning unit, provide a ramp and handrail to the front of the building and to provide external lighting
SITE AREA	0.02 hectares
RESIDENTIAL DEVELOPMENT DENSITY (NET)	N/A
TOPOGRAPHY	Predominantly flat
TREES	Large conifer on the side boundary with the school.
BOUNDARY TREATMENT	Metal railings to the front and side painted in maroon delineating the school boundary. Fencing has been erected adjacent to the school. Fencing to side with neighbour.
SITE CHARACTERISTICS	Brick built bungalow enclosed within the school site. The building has been used as part of the school, either as a caretaker's dwelling or as offices. The front of the site has been prepared ready to lay down hardstanding and the ramp has been erected.
CHARACTER OF LOCALITY	The site was formerly the caretakers house for St. Philip Howard Catholic High School. There is a public footpath to the side and rear of the building. There is a residential property adjacent on one side, the school on the other and the Catholic Chapel to the rear.

RELEVANT SITE HISTORY

EG/36/11/CLE	Application for certificate of lawfulness for an existing use as a detached bungalow	Refused

20-09-2011

Several discussions took place between Solicitor to Planning and Highways at West Sussex County Council and to several prospective purchasers. The building because of its previous function, as a caretakers house and then as offices for the school, is located very close to the school. Application EG/36/11/CLE for a private residential use was refused. Further clarification advised the County "the planning unit is a D1 Educational use as a school. The use has been and can be used for any purpose ancillary to the school. This could include adult education or general training. With regard to the unit being used seperately, we considered the case of "Winton - v - Secetary of State in that a significant material consideration is the juxtaposition of the unit and the school entrance...Car parking is provided on the school site and because of the no stopping zone it is unlikely that permission would granted to create a new access in order to provide car parking...the site can be used for any D1 ancillary use in association with the school. Any application to separate the bungalow as a separate unit is likely to be recommended for refusal due to the constraints of the site with regard to car parking.

REPRESENTATIONS

Representations received:

Eastergate Parish Council

Eastergate Parish Counci:
Objection the proposal will cause unneighbourly noise through parking and general use of the property for non residential activities. The parking appears inadequate for the proposed use and parking is lilely to occur on the road in a dangerous location near to St Philip Howard School and a sharp bend. The WSCC travel plan requires a large kerb near the school for safety and there is no application for a dropped kerb.

Others:
3 letters of objection from the same house. No site notice displayed, but then corrected to state that one had been placed on site. The application is inaccurate as a new vehicular entrance was being created and there had not been one there before. There was only ever a pedestrian access as the house was for the school caretaker. The site was not grass, it consisted of mature trees, grass, borders and paths. After a fire at the school, security fencing was erected around the front of the building where it remains. Recently fencing has been erected to the side to seperate the site from the school. There is no dropped kerb. The site is on a bend, next to a school entrance. Although the application is for limited use, the school has evening activities including the sports facilities, therefore young people will be entering and leaving the school during evenings. The fence creates limited visibility. The use of the site could be extended at any time. Covering the whole of the front garden with hardstanding would be detrimental to the residential area and potentially would increase flooding. The lighting could be a potential nuisance to neighbours. The loss of a residential property should be regretted. There is also the potential for noise nusaince. No details have been given concerning times of use. Insufficient details concening flooding from the hardsurfacing. The applicant states there will be 8 to 20 cars on the site - there is insufficient space to aloow for that number of vehicles on site to move, turn and exit. Vehicle movement in the rear will cause unpleasant vehichle noise and smells for the neighbouring garden. The air condition units will generate unnecessary noise pollution. These would be better placed on the school side.

Comments on Representations received:

Parish Council:
Noted and agreed.

Others:
Noted and agreed. The Council's engineers have commented that the permeable parking area would not increase flood risk to any property.

CONSULTATIONS

Environmental Health
Southern Water Planning
Engineers (Fluvial Flooding)
Planning Solicitor
WSCC Strategic Planning
Council Tax

Consultations responses received:

County Highways:
The overflow parking area is approximately 3 metres which is considered to be sufficient. From an inspection of the plans pedestrian visibilty is considered sufficient from the point of access. To safeguard for the future, visibility splays should be conditioned. The proposal is not considered to generate an increase in vehicular movements with respect to the previous use and peak usage times would not be expected to coincide with peak traffic levels in this area.

County Highways have not commented upon access arrangements because the applicant has not made an application to alter the access, despite the fact that car parking could not be achieved on site without creating a new access.

District Environmental Health:
There is potential for noise affecting nearby residential premises. The information provided on sound power levels gives 3 sets of sound data, the first of which is signifcantly louder than the second two. It is unclear when the first set of sound power levels applies and under what circumstances. I would therefore object to the application unless further clarification is provided. I note the fence surrounding the a/c units is described as "hit and miss" and assume that this will have gaps and therefore offer negligible noise reduction.

No information is provided as to the hours of use and whether the premises might be used for activities such as amplified musical entertainments which might give rise to noise disturbance.

District Engineers:
The permeable parking areas if constructed and designed to the required standard will not increase flood risk to any property. The permeable parking area designs will need to be submitted and supported by percolation testing.

Southern Water:
Due to surface water inundation issues in the Lidsey Catchment and the applicant is advised to adopt the measure in the table "Practical measures to reduce the potential impacts of development". The public sewerage system should be protected from inundation and infiltration which contribute to flooding in unfavorable conditions.

Council Tax:
The site was previously included in the Non Domestic Rating for the neighbouring school. Now advised it is to be used as a church and will still be non rateable.

Planning Solicitor:
Use Classes Order 1987 Art3(1) states that a change of use from a use within one class

defined in the UCO to another use in the same class is not a change of use and not development. Schedule Class D1 includes education use "provision of education". Schedule D1 also includes for or in connection with public worship or religious instruction. There are several letters on the CLE application which confirm the use is a D1 use. Consistency should be maintained. An intensification of a use may not necessarily lead to a change of use due to the effects or impacts resulting from it not being eveidenced or caused by some definite "definable change in character".

Comments on Consultation responses:

Comments noted. The applicant has not applied for the creation of a new access as there was no existing access because the site was part of the school unit and not a separate unit. A change of use application has not been submitted. Neither has the level of parking been indicated or how it would be laid out. The local planning authority have consistently stated to prospective purchasers and the in the decision of the Certificate for Lawfulness of an Existing Use said that the use was as a D1 use "ancillary use in association with the school", and not a separate unit, due to the implecations for car parking and neighbours. The question concerns the planning unit as a whole and not individual uses within the unit.

POLICY CONTEXT

Designation applicable to site:
Within the Built up Area Boundary
Area of Special Character.

DEVELOPMENT PLAN POLICIES

Arun District Local Plan 2003:	GEN7	The Form of New Development
	GEN12	Parking in New Development
	GEN32	Noise Pollution
	AREA1	Areas of Special Character

PLANNING POLICY GUIDANCE

NPPF	National Planning Policy Framework

POLICY COMMENTARY

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

The Development Plan consists of the Arun District Local Plan 2003 and the South East Plan adopted in 2009. It should be noted that the Arun District Local Plan was adopted in 2003 and the South East Plan in 2009. In accordance with paragrapgh 214 of the NPPF, the South East Plan is afforded full weight as part of the development plan. Footnote 41 (page 49) states the Governments clear policy intention to revole regional stragegies. Paragraph 214 of the NPPF ensures that specific policies in Arun District Local Pllan 2003 can carry weight but, because it predates 2004, a reduced 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.

The emerging local plan has recently been approved by the Council and is therefore a material consideration in the determination of this planning application. Whilst it has not been formally

adopted due weight has been given to its policies in terms of the decision making process at this stage.

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 the relevant Development Plan policies in that the proposal has provided insufficient information with regard to the access and parking arrangements. This is due to the separation of the building from the planning unit of the school. The introduction of hard surfacing to the back and front of the property would be detrimental to the area of special character and would result in the loss of residential amenity.

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

PRINCIPLE:
The site is within the built up area boundary and within the Barnham and Downview Road Area of Special Character. Therefore any development must be in accordance with the areas special and distinctive character.

HISTORY OF THE SITE:
The building was originally constructed and used as a caretakers house. The last use was as offices for the school. The building recently came up for sale. The County Solicitors and the public enquiring about the planning history were all advised that the use was a D1 use as one whole planning unit as a school. The site was fully intergrated with the school with no separate vehicular entrance. Application EG/36/11/CLE was refused for using the site as a separate dwelling. Further correspondence between the applicant (County Solicitors) clarified that the use of the site was as one planning unit D1 Educational and that it would be permitted development to use the site for any ancillary school use. The District Council's legal opinion was given taking into consideration the Winton - v - Secretary of State case which is judged on the facts. A significant material consideration is the juxtaposition of the unit and the school entrance. The site is in a no stopping zone to the front of the site. Car parking is provided on the school site. The correspondence clearly concluded "the site can be used for any D1 ancillary use in association with the school. Any application to separate the bungalow as a separate unit it is likely to be refused due to the constraints of the site with regard to car parking."

It should be noted that the Winton judgement concluded that the material issues when determining a change of use are the character of the area and potential detrimental affects on adjoining neighbours and the fact that a separation of use can also be considered to be a change of use. The Council's opinion has been clear that any D1 use should be in association and conjunction with the school and not as a separate unit.

Not withstanding this, the applicant has separated the site from the school without the submission of a change of use application. The applicant has clarified that the ownership certificate is correct and that a material change of use does not occur automatically upon the subdivision of a planning unit. This has been clarified by the Council's Planning Solicitor above. However, the local planning authority is of the opinion that the D1 use should be in association with the school use and not separate from the school for the reasons given below.

CHANGE OF USE:
The existing use is as a part of the St Philip Howard Catholic High School. All access and carparking is through the school. The proposed use is a Gospel Hall. There are no details available to determine the maximum number of users to the site and the car parking requirement. Verbally, the applicant has stated that the seating capacity is 130 with up to 30 cars, but that an average would be 10 cars. It it not implied by this decision that any granting of consent for the change of use has been given.

BARNHAM ROAD, DOWNVIEW ROAD (part), BARNHAM:
The site is withing an area of special character and any application must be sensitive to the special character. The special character of this part of Barnham derives from the mainly large dwelling and other buildings, standing in substantial grounds and set back from the road. There is a considerable amount of mature planting which, combined with hedges and the lack of formal pavements over part of the area, provide a distinctly mature surburban character. In this case the proposal is contrary to this policy as the applicant has taken out the front garden in preparation to lay the entire area to hardstanding for carparking.

VISUAL AMENITY:
The proposal will change the visual appearance within the street scene from a front garden with vegetation and planting, to a carpark covered entirely from back to front with hardstanding. The previous uses was in conjunction with the school and the existing visual appearance provided a residential front garden in character with the surrounding area whilst being linked by pedestrian path to the school and chapel. This proposal would separate the link and separate the use. The site does not have an existing vehicular access, and the creation of a new dropped curb would further add to visual distraction. Additionally the increased parking demand, particularly on Sundays when the Catholic chapel at the school is in use, the hard landscaping would be a visual intrusion within the street scene which would be detrimental to this area of special character.

RESIDENTIAL AMENITY:
The site is directly adjacent to a residential property and there is the potential for a significant increase in noise pollution, from the use of the site and the proposed air condition units, and from the proposed parking to the rear of the property. However, no details have been submitted showing parking layout. Insufficient details have been provided concerning the air condition units. Details of the proposed lighting to the building has also not been submitted. Therefore the loss of residential amenity cannot be correctly assessed. Environmental Health Officers have raised objections on that basis.

HIGHWAY SAFETY ISSUES:
This application is not for the creation of a new access, however, it will be necessary to create a new vehicular access in order to provide the proposed car parking. Further the applicant has provided no information concerning the layout of the car parking, the numbers of spaces to be

provided or any turn on site. The application form is vague and states "minimum say 8 up to say 20) with spaces not allocated. The application form furher states that the existing use is a school sixth form.

CONCLUSION:
Insufficient details have been submitted with regards to noise from the air conditioning units with regard to the impact on the neighbouring properties. The proposed parking area being introducted to the front and rear would result in loss of visual amenity which would cause harm to the area of special character and neignbouring amenity.

HUMAN RIGHTS ACT

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 (8), Article 1 of the First Protocol (protection of property). 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 none of the following impacts (negative, Neutral or positive) have been identified 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 On the basis of the information available the Local Planning Authority is not satisfied that the proposed development can be undertaken in a satisfactory manner without resulting in any loss of residential amenity. Insufficient details have been provided regarding noise levels with regard to the impact of the air conditioning units on neighbouring residential properties. This is contrary to Arun District Local Plan policies GEN7 and GEN32.

2 The introduction of car parking and a area of significant hard surfacing to the front of the property would be out of character and would cause harm to the visual amenities of the Area of Special Character. The development would therefore be contrary to policies GEN7, AREA1 of the Arun District Local Plan.

3 The introduction of car parking to the rear of the site would cause undue disturbance to the amenity of the neighbouring residential property contrary to policy GEN7 of the Arun District Local Plan.