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Sent: 23 April 2022 14:32
To: Planning <Planning@arun.gov.uk>
Subject: R/66/22/CLP

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For the attn. of Harry Chalk
Re: Application No: R/66/22/CLP

I live on the corner of Knightscroft Avenue and Sea Lane and have been a member of the Knightscroft Avenue Freeholders Association for many years. My house is the only house that is directly adversely affected by this planning proposal but I am by no means the only resident objecting to the application. I should like to fully document my thoughts on the proposal and the process used so that all interested parties are made aware of how some potentially unwelcome consequences of the application might be realised.

Planning permission is needed if the work being carried out meets the statutory definition of 'development', which is set out in section 55 of the Town and Country Planning Act 1990 and includes: Structural alterations, construction, engineering operations (eg groundworks) and road works that are not exclusively for the maintenance of the road.

Therefore in answer to the question does this application R/66/22/CLP meet the statutory definition of 'development' the answer is yes and therefore it follows that the development requires some category of

planning permission. However this application seeks a Lawful Development Certificate. A Lawful Development Certificate (sometimes called a Certificate of Lawfulness) is a legal document confirming that a proposed development is lawful in planning terms. This is not the same as planning permission but is proof that the proposed development is lawful. The meaning of lawful in this context refers to a 'Permitted Development'.

A Permitted Development in the context of application R/66/22/CLP falls under Class E – 'repairs to unadopted streets and private ways' and is described in the planning literature as 'the carrying out on land within the boundaries of an unadopted street or private way of works required for the maintenance or improvement of the street or way'.

Can the installation of a new electrically operated gate at the entrance to a road properly or accurately be described as road maintenance? Probably not, and if not does not warrant a Lawful Development Certificate because the proposed electric gate installation cannot be defined as a Permitted Development.

A Certificate of Lawfulness is essentially a means of obtaining a decision from the planning authority that a proposed development does not require planning permission. In this case such a decision is wholly subjective as one person's definition of improvement is another's definition of vandalism. The means of obtaining a certificate of lawfulness is purposefully made easy in the interest of speeding up the planning process and laudably so. But this sort of deregulation always produces some stark anomalies. Surely there must be some doubts in a system that allows the building of a mechanical barrier in the middle of a road without planning permission.

However, what is not in doubt and cannot be challenged is the Knightscroft Avenue residents established right of way, either written in their title deeds or by long usage or as in my case both, over the road they live in. The proposed gate, even with remote fob or keypad codes, is in established legal terms a limitation of such rights and requires the consent of all residents.

The original trustees of the road stated that 'the private road and all frontages have been granted a free and uninterrupted right of way for all purposes' and 'a gate cannot impede the rights of way which each resident enjoys and which was granted'.

It could be argued and probably has been in the past that these are legal matters and not planning considerations were it not for the Rights of Way Circular 1/09 'government guidance for local authorities' which states:

'The effect of development on a public right of way is a material consideration in the determination of applications for planning permission and local planning authorities should ensure that the potential consequences are taken into account whenever such applications are considered'.

It goes on to state 'most outline planning applications do not contain sufficient information to enable the effect on any right of way to be assessed', a Lawful Development Certificate even less so. To fully address these serious concerns

The Department for Communities and Local Government has introduced a document 'The Validation of Planning Applications'. The document specifies (in paragraph 40) that all public rights of way crossing or adjoining the proposed development site must be marked on the plan to be submitted with the full planning application.

It is therefore incumbent on the Planning Authority to fully consider in detail the 'rights of way' issues in this application and the governments planning edicts that infer a Lawful Development Certificate is insufficient and a full planning application appropriate if not a requirement.

Impeding my free and uninterrupted right of way for all purposes over a road that I have lived in and paid to maintain for 34 years so that more recent arrivals can claim to be part of a select gated community is the inevitable outcome of what I have already described as an unsubstantiated, unacceptable and divisive proposal.

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