

Section '4' - Applications recommended for REFUSAL or DISAPPROVAL OF DETAILS

Application No : 18/03492/FULL1

**Ward:
Chislehurst**

**Address : Roadway Adjacent To Manor Beech
Manor Park Chislehurst**

OS Grid Ref: E: 544760 N: 169714

Applicant : Steering Group for the Gates and Piers

Description of Development:

Introduction of automatic vehicular access/egress gates and brick piers on road outside Manor Beech, Manor Park

Key designations:

Conservation Area: Chislehurst
Biggin Hill Safeguarding Area
London City Airport Safeguarding
Smoke Control SCA 16

Proposal

The application seeks permission for the introduction of automatic vehicular access/egress gates and brick piers on Manor Park, adjacent to Manor Beech.

The proposed new vehicular access gates will measure approx. 6m in width to span the width of the road. An existing road hump will be removed in order to allow for the erection of the gates, which will be set back approx. 9m from the southern edge of an existing driveway which provides access to 'Manor Beech'.

There are grass verges alongside both sides of the road at present, which will be retained, and a pedestrian access will be kept open (with no gate proposed) which will have a width of approx. 2m along the western verge. This area to the south and north of the proposed gates and piers will be paved.

Each gate (access and egress) will measure approx. 3.5m in width, with a brick pier in the centre and one to either side, each measuring approx. 0.67m wide.

The application was supported by the following documents

- Cover letter outlining a previous planning approval
- Design and Access Statement
- Copy of photographs of site for proposed gates and piers as existing.

Location and Key Constraints

The site for the proposed entrance and egress gates and brick piers is set back approx. 80m from the junction with St Paul's Cray Road, along Manor Park, which is sited within the Chislehurst Conservation Area.

The area is characterised by a large number of Arts and Crafts style late 19th century locally listed dwellings, along with some Statutory Listed Buildings, along with wide grass verges to either side of the road and properties within substantial plots.

Manor Park itself is accessed from St Paul's Cray Road which is a Classified road; A208, and there is a double junction of Manor Park and Manor Park Road due to the proximity of these streets to each other.

Comments from Local Residents and Groups

Nearby owners/occupiers were notified of the application and representations were received, which can be summarised as follows:

Objections

- the specific loss of amenity to those located near to the proposed gates including noise, pollution, danger, difficulty in parking for their visitors;
- the loss of amenity to non-resident users of the road who wish to access National Trust Land;
- the impact on traffic outside the road and those seeking vehicular access to the road for legitimate reasons;
- highway safety;
- noise and disturbance;
- the impact on a conservation area by the introduction of gates, in a road that has existed without gates for more than 100 years, which changes the appearance of the road;
- We spend our professional lives as educationalists intent on removing barriers that would differentiate and highlight status, affluence, privilege and opportunity. We see first hand that our community is often disparate, disconnected, and fractured, and these characteristics would be exacerbated by having areas of Chislehurst appearing only for the few whilst disenfranchising and disadvantaging the many. Gates would form a psychological barrier that would actively work against Chislehurst appearing and being a cohesive community;
- Unlike other gated estates, Manor Park provides access to public woodlands so I would urge planners to consider whether restricting the community's access to these is justified, and unlike other gated estates these gates appear to be situated right outside people's properties. Surely they will be badly impacted by traffic noise, pollution, queuing traffic, visitors knocking their door, etc. How can that be fair?;
- I appreciate security fears in the road are real, but I don't understand how a giant set of gates that are totally out of character with the road, does anything to counter these? Will they not make people complacent?

Advertise there are good things going on behind them? What about the huge amount of access from the woods (where the burglars came from every one of the five times Chelwood has been burgled)?;

- If the gates are to remain open, or open automatically upon arrival, what does that stop?
- Unneighbourly form of application;
- Manor Park is in a Conservation Area and presents an open and rural aspect to residents and visitors alike. The proposed gates will detrimentally change this much cherished feature of our neighbourhood;
- Was resident when the 2002 gates were approved; objected previously, so close to a very tricky junction, with the associated potential for accidents both to residents entering and leaving the road in their vehicles, to other road users and to pedestrians. I believe that the traffic situation along St Paul's Cray Road has become more, not less, challenging in the intervening years. I remain of the opinion that any proposal to install vehicular gates along the road would increase the likelihood of serious incidents occurring;
- proposed positioning of the gates would in all probability lead to more on street parking at the head of the road of the road, on both sides of the carriageway. The carriageway as it stands is simply not wide enough to accommodate three vehicles of any description, moving or stationary, particularly when for example skip lorries, dustbin lorries, courier vans, removal lorries or construction vehicles come face to face when entering or leaving Manor Park. The resultant tailbacks along St Paul's Cray Road in both directions and on Manor Park Road will quickly become a traffic hazard and nuisance to residents and other road users alike, not just those of us living at the top of the road, and not only in peak times when, as was proposed at a recent residents' meeting, the gates would be left open.;
- Vehicles trying to reverse onto the main road in such situations will cause particular havoc with traffic coming around the bend in the highway from Petts Wood, invariably at speeds greater than 30mph as residents trying to turn right at the head of the road can testify;
- The omission from the proposal of any facility for vehicles entering the road in error to turn around is also of concern. Nowhere on the plan is it indicated where such a manoeuvre could be completed. The conclusion must be that exiting the road would involve turning into individual householders' driveways, there being no other way to leave this section of Manor Park without reversing onto the main road. This could occur many times a day, particularly at school drop off and pick up times and frequently for large commercial vehicles. This activity will again add to the loss of amenity to the properties at the head of the road;
- I wish to object to the application for Gates across Manor Park at my property Manor Beech on the grounds of loss of enjoyment of our garden, noise, pollution and nuisance, and change in character and appearance of Manor Park;
- In Mr McQuillan's covering letters dated 30.7.18 and 15.8.18, he asked for permission to reinstate the 2002 planning permission. However, the enclosed plans are completely different in design, style, place and materials;
- With over 600 cars passing our property every day (please see traffic survey at the end of Derek Latimer's uploaded representation 30.8.2018), the noise

of cars stopping, starting and seeking permission to enter exactly by our garden seating area will cause a nuisance and pollution and spoil the enjoyment of our garden. All cars and vans denied entry through the gates or coming down the road by mistake will have to turn into our (or our neighbours) private land. This is unacceptable;

- Large lorries entering the road by mistake will have to back into the main road. To do this legally, the police will have to be called to stop the traffic on the A208;
- Manor Lodge, Manor Beech and Beechwood will block the gates when getting their cars out and any parking in the road by visitors or carers within 25 metres of the gates will cause mayhem and block emergency vehicles;
- Manor Beech wall at its lowest point is 1.77m (5ft.9.5ins) high. Not 2metres. People will be forced to walk close by the wall and many will be able to look into our garden. This is a great loss of privacy;
- The proposed gates are far too intimidating and imposing for a friendly open road, they will entirely change the character and appearance of the road. They will imply to all non-residents that the road to the woods is closed;
- We do not want to imply that large chunks of Chislehurst are closed to the public. We want people to be able to take children for walks, exercise dogs, run, and generally relax and enjoy the local woods. Disabled people should be able to park near the woods otherwise they will be excluded. Please reject this application to close off part of Chislehurst;
- long standing access to the nearby National Trust property will be impaired by the proposed access gate and will likely lead to confusion and traffic congestion as visitors negotiate entry;
- the open and semi-rural character of the road will be negatively impacted by the proposed gate and its "gated development" associations;
- Problems over emergency vehicle access;
- Changing the character of the road;
- There are various suitably gated residential areas in the Bromley borough. Manor Road however is not a suitable area to be gated. Although it is mostly residential it has access to National Trust Woods which is for and to be enjoyed by the general public, and not exclusively for the residents of Manor Road. Surely you cannot Gate off this public access;
- Several questions also need to be answered before permission is granted for these gates:
 - If the gates are locked, how will regular visitors to the road, such as the post man, milkman, deliveries and family of residents, gain access? And more importantly, how will emergency services enter?
 - If the gates are not locked and open automatically, how will this prevent burglaries?
 - If the gates break down, who is responsible for fixing them and how will residents etc get in and out of the road?;
- do not accept that the gates will make a significant difference to security. We accept there may be a marginal difference in relation to certain types of criminal activity, but we do not consider this is enough to justify the gates. The National Trust land provides an excellent escape route for criminals to escape on foot and the gates will have no impact on that, or on criminals on foot at all. The gates will have little impact on those criminals using vehicles;

as they will open on approach, or be stood open at certain times. The gates have no ability to distinguish between the vehicles of criminals and those of our friends, service providers or trade visitors.;

- The gates will change the pleasant appearance of the entrance to the road and conflict with the Chislehurst Conservation area. They are tall and ugly. The proposed bricks and style do not match the closest homes. Gates of any kind would change the conservation area;

Support

- added security to the area;
- Unfortunately we live in a very dangerous world. We need to protect our children and the community the best we can;
- Gates, security alarms, dogs are all deterrence but above does not work without gates;
- Our area has suffered a disproportionately high rise in crime that include fearless burglaries that leave not only theft of possessions but everlasting emotional fear and insecurity for families;
- I have no doubt that gates provide a positive safer environment.
- I have been a regular dog walker and see absolutely no problem in continuing accessing the woods from Manor Park. I think there is a lot of misunderstanding and misinformation on this aspect;
- The design of the gates are completely in keeping with the road in terms of scale and character and will add to the aesthetic of the road;
- often get cars abandoned on the road due to the lack of parking control by owners who are not using their vehicles. The installation will help to limit this;
- The road will still be accessible for the public as the gates will remain open at most times as well as the pedestrian gates that are planned, so there will be almost no change to access to the National Trust woods for non residents;
- The Steering Group applying for the gates have provided a democratic process for residents to vote for gates and of the votes cast over 80% were in favour;
- Manor Beech in my view has been well designed to minimise the visual and noise impact from the road traffic despite the more recent installation of a large speed bump located where the gates are proposed;
- For the record our house has historic metal gates and brick piers approximately 3.5 meters from our front door. Traffic must slow down to enter and wait to enter or exit if there is two way traffic. This creates absolutely no problems with noise or pollution as far as we are concerned;
- The gates are far enough into the estate that in my opinion there should be no negative impact on the flow of traffic on the main road;
- Gates have been recommended to the residents by a number of experts, including the current Chief Constable of Kent himself along with several other officers from the Kent & Met police forces, as one of the key measures we can take as a community to protect ourselves from further attacks of the sort recently witnessed;

- In no way is the steering group a self-appointed pressure group as has been claimed, but rather a group of volunteers arranging meetings, neighbourhood watch, security patrols etc;
- There is absolutely NO plan to prevent pedestrians accessing the woods and National Trust lands and categorically never will be. This is a fantastic part of Chislehurst and will quite rightly remain open to all who want to enjoy it;
- Other benefits appear to be that children can play more safely and traffic generally moves more slowly;

Comments from Consultees (summarised as follows:)

APCA: did not inspect the application.

Conservation Officer: No technical objection raised. It is considered that the character and appearance of the conservation area would be preserved and the proposal is in accordance with BE11.

Highways: The current application is not viewed as a renewal of the earlier application referred to within the application documentation due to the relocation of the gates and other dimensional differences. Technical objection is raised on the basis of highway safety grounds.

The applicant should also be advised that, because the Council documents the status of Manor Park as an "unadopted highway", restricting access by the erection of gates would contravene legislation contained in s 130 of the Highway Act 1980, (the Act) to assert and protect the rights of the public to the use and enjoyment of the full width any highway for which they are the highway authority. Accordingly, any proposal to restrict access to Manor Park by the erection of gates is unacceptable.

Policy Context

Section 70(2) of the Town and Country Planning Act 1990 (as amended) sets out that in considering and determining applications for planning permission the local planning authority must have regard to:-

- (a) the provisions of the development plan, so far as material to the application,
- (b) any local finance considerations, so far as material to the application, and
- (c) any other material considerations.

Section 38 (6) of the Planning and Compulsory Purchase Act (2004) makes it clear that any determination under the planning acts must be made in accordance with the development plan unless material considerations indicate otherwise.

The National Planning Policy Framework was published on 24th July 2018. According to paragraph 48 of the NPPF decision makers can also give weight to relevant policies in emerging plans according to:

- a) The stage of preparation of the emerging plan (the more advanced the preparation, the greater the weight that may be given);
- b) The extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given); and
- c) The degree of consistency of the relevant policies in the emerging plan to the policies in the NPPF

The Council is preparing a Local Plan. The submission of the Draft Local Plan was subject to Hearings from 4th December 2017 and the Inspectors report is awaited. These documents are a material consideration. The weight attached to the draft policies increases as the Local Plan process advances.

The development plan for Bromley comprises the Bromley UDP (July 2006), the London Plan (March 2016) and the Emerging Local Plan (2016). The NPPF does not change the legal status of the development plan.

London Plan Policies

7.4 Local Character

Unitary Development Plan

T3 Parking

T18 Road Safety

BE1 Design of New Development

BE8 Statutory Listed Buildings

BE10 Locally Listed Buildings

BE11 Conservation Areas

Emerging Local Plan

30 Parking

37 General Design of Development

41 Conservation Areas

38 Statutory Listed Buildings

39 Locally Listed Buildings

Supplementary Planning Guidance

Supplementary Planning Guidance (SPG) 1 General Design Principles

Farnborough Village Conservation Area SPG

Planning History

Planning permission was granted under reference 02/00194 for entrance gates and piers. This permission expired and was never implemented.

Considerations

The main issues to be considered in respect of this application are:

- Resubmission
- Design, conservation area and setting of listed buildings
- Highways
- Neighbouring amenity
- Other matters
- CIL

Resubmission

A previous application was granted planning permission under reference DC/02/00194 for gates and piers which would have been sited adjacent to the entrance to Manor Park at the junction with St Paul's Cray Road. This permission expired in 2007 and was never implemented.

This approval was granted subject to 2 planning conditions, relating to the commencement of development within 5 years, and compliance with the approved plans in order to protect the character of the conservation area.

An informative was also attached to the permission, which advised that the implementation of the planning approval would be likely to contravene legislation contained in the Highways Act 1980, and in implementing the approval would cause an offence to be committed.

Design, conservation area and setting of Listed Buildings

Design is a key consideration in the planning process. Good design is an important aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people.

Paragraph 124 of the NPPF (2018) states that the creation of high quality buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities.

Paragraph 127 of the NPPF (2018) requires Local Planning Authorities to ensure that developments will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development; are visually attractive as a result of good architecture, layout and appropriate and effective landscaping and are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities). New development shall also establish or maintain a strong sense of place, using the arrangement of streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and visit; optimise the potential of the site to accommodate and sustain an appropriate amount and mix of development (including green and other public space) and support local facilities and transport

networks; and create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.

London Plan and UDP policies further reinforce the principles of the NPPF setting out a clear rationale for high quality design.

Policy BE1 of the UDP requires new buildings to complement the scale, form, layout and materials of adjacent buildings and areas, and seeks to protect the amenities of neighbouring properties.

Policy BE11 requires new development to respect and preserve the special features of the Chislehurst Conservation Area and the Council will resist development that fails to enhance and preserve the character and appearance of this area.

Heritage Impact:

The NPPF sets out in section 16 the tests for considering the impact of a development proposal upon designated and non-designated heritage assets. The test is whether the proposed development will lead to substantial harm to or total loss of significance of a designated heritage asset and whether it can be demonstrated that the substantial harm or loss is necessary to achieve substantial public benefits. A range of criteria apply.

Paragraph 196/197 state where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use. The effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing applications that directly or indirectly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.

Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 places a requirement on a local planning authority in relation to development in a Conservation Area, to pay special attention to the desirability of preserving or enhancing the character or appearance of that area.

Interpretation of the 1990 Act in law has concluded that preserving the character of the Conservation Area can not only be accomplished through positive contribution but also through development that leaves the character or appearance of the area unharmed.

In addition, given that there are a number of locally and Statutory Listed Buildings within the vicinity of the proposed development, Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 is also relevant, which places a duty on a local planning authority, in considering development which affects a listed building or its setting, to have special regard to the desirability of preserving the

building or its setting, or any features of architectural or historic interest it possesses.

It is considered that as the site is in a sensitive conservation area location with both locally and statutory Listed Buildings located within the vicinity, the overarching design of the proposal is of high importance and an exceptional design solution should be secured.

The Council's Heritage Officer has commented that there are a number of roads within the Borough that have gates, so it could be considered that there is some precedent. The application makes reference to some of the original properties in Manor Park, including the gates next to Manor Lodge, and it could be considered that a more simple design approach could be well justified by the introduction of simple timber arts and crafts style gates that would have less of an impact within the streetscene, however given the previously approved scheme and the current proposal being similar in terms of design, it is considered that a reasonable design rationale has been taken for the proposed new gates and piers and as such, no objection has been made in principle to the current proposal from a heritage point of view.

The proposed gates and piers would be constructed of materials that will be similar in appearance to those used in a number of properties within the area, and should permission be granted, samples would be provided to be agreed by the Local Planning Authority prior to the commencement of development to ensure that the materials would not harm the character and appearance of the conservation area, nor impact upon the locally and statutory listed buildings within the vicinity.

It is considered that from a design point of view within the conservation area, and with regard to the setting of the locally and Statutory Listed Buildings, the proposal would preserve the conservation area and would not detract from the nearby listed buildings, in accordance with Policies BE8 and BE11 of the Unitary Development Plan.

Highways

The NPPF recognises that transport policies have an important role to play in facilitating sustainable development but also in contributing to wider sustainability and health objectives. The NPPF clearly states that transport issues should be considered from the earliest stage of both plan making and when formulating development proposals and development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe.

The NPPF states that all developments that will generate significant amounts of movement should be required to provide a travel plan, and the application should be supported by a transport statement or transport assessment so that the likely impacts of the proposal can be assessed.

London Plan and UDP Policies encourage sustainable transport modes whilst recognising the need for appropriate parking provision. Car parking standards

within the London Plan, UDP and emerging draft Local Plan should be used as a basis for assessment.

Whilst the current application is not viewed as a renewal of the earlier (2002) application referred to within the application documentation, due to the relocation of the gates, it does seem possible that the proposed gates could be expected to function so as to accommodate the observed flows of the vehicular traffic into Manor Park. There can be no doubt however that any malfunction, such as the gates opening slowly or not completely or a failure of the electrical supply etc., would result in vehicles queueing back into the junction of Manor Park with St Pauls Cray Road which has a unusual layout given its proximity to Manor Park Road and the sharp bend.

It is also not known how the gates would be operated on a day to day basis or how tradesmen, delivery lorries and emergency vehicles would get in when it is completely shut.

Technical objection is therefore raised with regard to this application on the basis of highway safety grounds.

Although the application documentation states that initially the gates will open automatically on the approach of vehicles, this is to be monitored and it is only considered "most likely" that the gates will remain open at peak times. This implies that on other occasions the gates would not open automatically for approaching traffic. Manor Park is accessed from a blind bend in St Paul's Cray Road (when travelling from Petts Wood) which is a Classified road (A208), and there is a double junction of Manor Park and Manor Park Road due to the proximity of these streets to each other. In the previously approved planning permission, if a motorist was driving along St Paul's Cray Road they would be able to see that there was a gate erected and attempt to make the necessary manoeuvres so as not enter the street. However, the proposed gates are some 75m from the junction with St Pauls Cray Road and drivers will be committed to turning into Manor Park before they can see the gates. This may force them into reversing all the way back onto St Paul's Cray Road. This could well be the case with commercial, emergency, or articulated vehicles, as well as cars, particularly if there are vehicles parked on either side of the street leading up to the gates that are also unable to access beyond the gates.

This would thereby result in manoeuvres that could cause a road safety hazard as there is no turning facilities where the gates are proposed to be located, and no turning facilities could be created at that location to accommodate the turning of long vehicles. The addition of gates will increase the risk of accidents because of the possibility that a queue of cars will form on Manor Park before the gates and this will as a result impede cars travelling on St Paul's Cray Road.

This means that the proposal is likely to be prejudicial to the free flow of traffic and conditions of safety in the highway contrary to Policy T18 of the UDP.

There is also no guarantee that the gates will be open at peak times, which is more likely to result in the unsafe traffic movements as referred to above.

Neighbouring amenity

Policy BE1 of the UDP seeks to protect existing residential occupiers from inappropriate development. Issues to consider are the impact of a development proposal upon neighbouring properties by way of overshadowing, loss of light, overbearing impact, overlooking, loss of privacy and general noise and disturbance.

The previously approved but unimplemented vehicular access gates from 2002 were to be sited close to the junction of Manor Park and St Paul's Cray Road, which would have been a reasonable distance away from residential dwellings. The current proposal has moved the gates some 75-80m away from the junction with St Paul's Cray Road and further along Manor Park, so that they would now be located outside Manor Beech, only a mere 9m (approximate) from the back edge of the existing driveway.

Concerns are raised with regard to the impact that the installation of gates in this position would have upon the residential amenities of the occupiers of Manor Beech, particularly if the gates were shut and traffic was queuing to enter or exit through the gates. Should the gates be kept permanently open, this issue may not arise, however given the application documentation does not imply they would be continuously open, concerns are raised that vehicles waiting to enter/exit the gates would result in an increased level of noise and disturbance to the occupiers of nearby residential dwellings, which be contrary to the aims of Policy BE1 of the Unitary Development Plan.

Other matters

The applicant should also be advised that, because the Council documents the status of Manor Park as an "unadopted highway", restricting access by the erection of gates would contravene legislation contained in s 130 of the Highway Act 1980, (the Act) to assert and protect the rights of the public to the use and enjoyment of the full width any highway for which they are the highway authority. Accordingly, any proposal to restrict access to Manor Park by the erection of gates is unacceptable. Even in the open position the gates would create a psychological barrier to public access whilst, when closed, they would actually obstruct the public right of passage.

S 143 of the Act states "where a structure has been erected or set up on a highway otherwise than under a provision of this Act or some other enactment, a competent authority may by notice require the person having control or possession of the structure to remove it within such time as may be specified in the notice". Consequently, should planning permission be granted and construction of the gates is commenced or the gates erected, the applicant should be aware that Highway Authority can and will take action against any encroachments or obstruction of the highway whereby the rights of the general public will be affected, as the rights of access over Manor Park and the spur roads will be obstructed by the gates.

Restricting access by the erection of gates would also cause an offence to be committed under s 137 of the Act which states that if a person, without lawful authority or excuse, in any way wilfully obstructs the free passage along a highway he is guilty of an offence and liable to a fine. Consequently should planning permission be granted to erect the gates, the Council as the Highway Authority will not only take enforcement action to remove the gates but also prosecute those persons who have erected the gates and / or those persons who have directed the gates to be erected.

CIL

The Mayor of London's CIL is a material consideration. CIL is not payable on this application and the applicant has completed the relevant form.

Conclusion

On balance, it is considered that introducing the proposed gates and piers would result in a detrimental impact upon the conditions of road safety and would also result in harm to the residential amenities of nearby residential dwellings, by reason of increased noise and disturbance.

Background papers referred to during production of this report comprise all correspondence on the files set out in the Planning History section above, excluding exempt information.

as amended by documents received on 15.08.2018
RECOMMENDATION: APPLICATION BE REFUSED

The reasons for refusal are:

- 1 The proposed gates would be prejudicial to the free flow of traffic and conditions of safety in the highway contrary to Policy T18 of the Unitary Development Plan and draft Policy 32 of the emerging Local Plan.**
- 2 The position of the proposed gates and piers in close proximity to the adjacent residential dwellings of Manor Beech and Beechwood in particular, would be detrimental to the amenities that the occupiers of those dwelling might reasonably be able to expect to continue to enjoy by reason of noise and disturbance associated with waiting traffic, thereby contrary to Policies BE1 of the Unitary Development Plan and draft Policy 37 of the emerging Local Plan.**

You are further informed that :

- 1 The applicant is advised that the Council documents the status of Manor Park as an "unadopted highway"; therefore restricting access by the erection of gates would contravene legislation contained in s 130 of the Highway Act 1980, (the Act) to assert and protect the rights of the public to the use and enjoyment of the full width any highway for which they are the highway authority.**

Restricting access by the erection of gates would therefore cause an offence to be committed under s 137 of the Act which states that if a person, without lawful authority or excuse, in any way wilfully obstructs the free passage along a highway he is guilty of an offence and liable to a fine. Consequently should planning permission be granted to erect the gates, the Council as the Highway Authority will not only take enforcement action to remove the gates but also prosecute those persons who have erected the gates and / or those persons who have directed the gates to be erected.