164 Manor Hall Road, Southwick, BN42 4NP

Appeal against the refusal of planning permission for first floor rear extension with cladding (retrospective). Re-submission of AWDM/1285/18, at 164 Manor Hall Road, Southwick, Brighton, West Sussex BN42 4NP

On behalf of: Mr Andrew George

Prepared by: Steve Miller Dip TP MRTPI

LPA reference: AW/DM/1285/18

Date: 29/10/2019

planning direct

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Introduction

This appeal is submitted on behalf of Mr Andrew George, the appellant, against the decision of the Adur and Worthing Councils to refuse planning permission (ref: AWDM/1103/19) for first floor rear extension with cladding (retrospective), resubmission of AWDM/1285/18 at 164 Manor Hall Road, Southwick.

The application was refused by decision notice dated 18/08/2019. The reason for refusal was given as follows:

01 The extension as built at the date of the decision is an unneighbourly form of development which is detrimental to the residential amenities of the adjacent occupiers resulting in a loss of light and overbearing impact conflicting with Policy 15 of the Adur Local Plan.

Accordingly, this statement of case will look to dispel the Council's above-stated concerns over the impacts on neighbouring residential amenities and demonstrate that the design of the extension has been deliberately conceived to protect neighbours and that in accordance with national guidance there would be no significant adverse impact on adjacent lighting amenities. Similarly, the neighbouring impacts would be less than would occur under permitted rights which were obviously designed to protect neighbouring amenities

In so doing, it is intended that this document will provide compelling evidence that the development here appealed constitutes sustainable development and integrates successfully within its particular residential context in accordance with the relevant local, regional and national planning policies and permission is consequently due.

Please note that the photo on the front page shows the extension before if was cut back from the 162 side boundary in accordance with the planning application drawings the subject of this appeal.

Description of Development Site & Proposals

The site is within the built-up Southwick area west of Brighton, and is within an area of mid 20th century suburban family housing.

The appeal site comprises a mid terrace house much altered at the rear, as have the others in this terrace of four houses. The appeal house has been extended at the rear and a large box dormer has been constructed. Facing materials include rendered walls and tiled roof.

The proposed extension comprises a first floor rear extension with a flat roof. The extension is 3m deep and 4.6m wide. It is set off from both boundaries - 0.8m from the west boundary with 162.

The other houses in the terrace have all been extended at the rear and 166 has a dormer window similar to that at the appeal site.

The appeal site is not within a Conservation or other designated area and there are no other heritage assets in the vicinity.

Planning History

Reference no.	Description	Decision	Date
AWDM/1285/18	First floor rear extension with cladding (part retrospective)	Approved/ conditions	18/12/2018

That permission was for development similar to the appeal proposal but with a 2m offset to the side boundary to 162. The appellant found that the layout of the accommodation was awkward and thus now wishes to have a 800mm offset as proposed. This is a reasonable compromise which the Council should have allowed.

Policy Justification

National

NPPF

Para 10 - So that sustainable development is pursued in a positive way, at the heart of the Framework is a presumption in favour of sustainable development.

Para124- the creation of high quality buildings and spaces is fundamental to planning, good design is a key aspect of sustainable development, creates better places to live and helps make development acceptable to communities. Being clear about design objectives, and how these will be tested, is essential in achieving this.

Para 127- planning decisions should ensure developments function well and add to the overall quality of an area; are visually attractive as a result of good architecture; and are sympathetic to local character and history including the surrounding built environment while not discouraging or preventing appropriate innovation. Planning should 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

Local

Adur Local Plan 2017

Policy 15 - Development should -

- Make a positive contribution to the sense of place, local character and distinctiveness of an area; and not have an unacceptable impact on adjacent properties, particularly residential properties, including unacceptable loss of privacy, daylight/sunlight, outlook or open amenity space.

Adur Development Management Standard No. 2 (undated)

Para 2- Standards for extensions.

Para 2.2 refers to the effects of extensions on neighbouring properties and states that permission will not be granted if there would be unacceptably adverse effects relating to privacy, daylight and outlook. It states that there should be no direct overlooking to neighbours, no loss of daylight to an unacceptable extent and that extensions should not be overbearing or oppressive. Such effects will vary according to size and position as well as location and orientation with neighbouring properties

Para 3 - Standards for extensions and Alterations.

Para 3.2 states-

The closer a rear extension is to the boundary of a neighbouring property the more likely it is to adversely affect that property, by way of overlooking or loss of daylight. On semi-detached or terraced dwellings single storey rear extensions which abut, or are within 1m of a common side boundary with an attached dwelling, should normally be no deeper than 3.5m. Whilst two-storey (or first floor) rear extensions that are within 1m of a side boundary with an attached dwelling should normally be no deeper than 2m, extensions abutting the boundary will not normally be permitted.

Planning Considerations

Benefits of the development

This statement of case will first consider the intended benefits of the scheme which are held to be significant and to weigh distinctly in favour of the development.

The proposed accommodation avoids the use of corridors which would waste valuable floorspace. This is essential to meet the needs of the appellant. The reduced floorspace under the previous planning permission would require a corridor. Such an arrangement would be inherently unsustainable as far as the appellant is concerned.

The benefits of necessary additional accommodation as proposed has to weighed against the impacts on 162. It is contended strongly that, unless there are significant measurable effects the protection of a bedroom window should not be accorded undue weight because bedrooms are not inhabited to such a degree as lounges/kitchens and being mainly used for sleeping in darkness have a comparatively lower requirement for daylight. Similarly, “overbearing” and outlook considerations should be weighed accordingly.

Status of the Development Management Standards

There is no indication from this document of its status in the decision-making process. It doesn't appear to have been the subject of public consultation and there is no reference to any formal adoption. Furthermore, some of the standards are unrealistic e.g. restricting some extensions to 2m deep which is not deep enough for a room. There is no reference to shadow, sunlight or how loss of daylight is calculated and no reference to how existing single storey extensions should be taken into account when considering first floor proposals. This is important because the impact of a two storey extension on a neighbour with a ground floor addition will be considerably less than had there been none. This distinction is important in this appeal.

It is considered that these Standards are overly simplistic and must therefore carry only limited weight in the decision-making process. It is accepted that there is flexibility in the wording but that this has not been applied in the consideration of this appeal proposal.

Impact on 166 Manor Hall Road

The Planning Officer's report does not consider there are any issues with this neighbouring house on the basis that the nearest window there is a bathroom. The appellant very much agrees with this. Nevertheless, it would still contravene the standards in para 3.2. although there is a flexibility in the wording of the policy. It is noted that there are no objections to the proposals from 166.

Subject to detailed assessment, therefore, the proposals could have been approved given the flexibilities in the policy demonstrated through the assessment of impacts on 166.

Impact on 162 Manor Hall Road.

The decision notice alleges a loss of light but there is no evidence to back this up, and even if there were, an assessment would still have to be made as to whether the effect would be to seriously affect lighting amenities. No such assessment has been carried out which is necessary to support the claim that there would be serious effects.

The Officer could have used any number of software aids to assess lighting rather than attempt judgement. The leading guidance on lighting is *Site Layout Planning for Daylight and Sunlight 2011* published by the Building Research Establishment (BRE). This covers new build and extensions so is pertinent to this appeal.

Paras 2.2.14-2.2.17 and figures 16 and 18 are relevant. These extracts are submitted as part of this appeal. For ease the paras are copied below-

2.2.14 For domestic extensions which adjoin the front or rear of a house, a quick method can be used to assess the diffuse skylight impact on the house next door. It only applies where the nearest side of the extension is perpendicular to the window (Figure 16); it is not valid for windows which directly face the extension, or for buildings opposite. For these cases the guidelines above should be used.

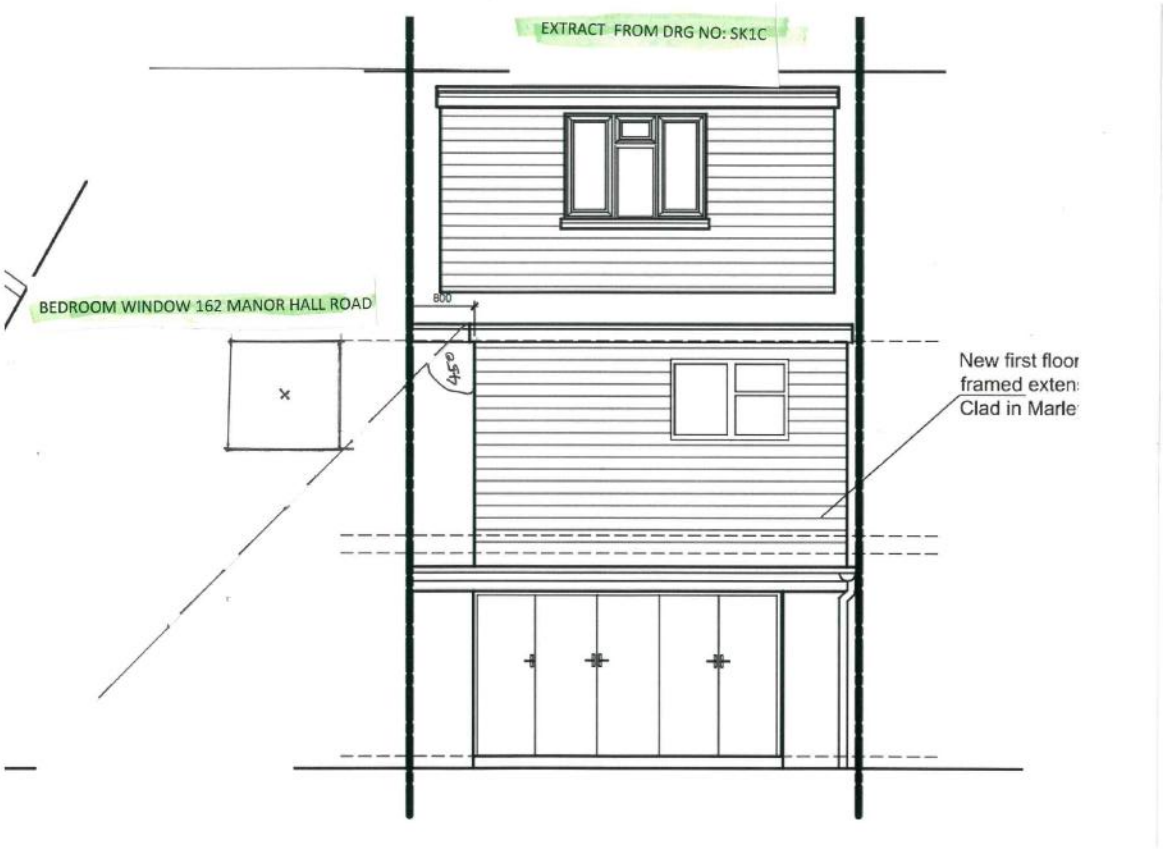
2.3.15 Figure 17 illustrates the method, the "45 degree approach." Take the elevation of the window wall and draw diagonally down at an angle of 45 degrees away from the near top corner of the extension (Figure 17). If the extension has a pitched roof then the top of the extension can be taken as the height of its roof halfway along the slope (Figure 18). Then take the plan and draw back at an angle of 45 degrees towards the window wall from the end of the extension. (Note that the section perpendicular to the window is not used here.) If the centre of a main window of the next door property lies on the extension side of ***both these 45 degree lines*** *then the extension may well cause a significant reduction in the skylight received by the window. (In the case of a floor-to-ceiling window such as a patio door, point 1.6m above the ground on the centre line of the window may be used.)*

2.2.16 Like most rules of thumb, this one needs to be interpreted flexibly. For example, if the extension has another extension, or a much larger building, behind it then the daylight from that extension may be blocked anyway. Special care needs to taken where an extension exists on the other side of the window, to avoid a "tunnel effect." (Figure 19). A VSC calculation (see sections 2.2.5 and 2.2.6) can used to quantify the loss of light, if required.

2.2.17 Finally as with the other guidelines in this section, the 45 degree approach deals within diffuse skylight only. Additional checks will need to be made for the sunlight which may be blocked (see Section 3.2).

It can be seen from the above that for there to be a significant reduction in daylight then both 45 degree angles (elevation and plan) have to be infringed in relation to the central point of the affected window. The attached extract below from the submitted drawing shows the 45 degree angle in elevation. It demonstrates that the angle does not infringe the bedroom window of 162 at all let alone at its centre. The 45 degree test is therefore passed and the BRE Guidance is therefore complied with. There would not be a significant loss of light and adequate daylight to the window is protected. This is hardly surprising given that the proposed extension is not much higher than the top of the window. The proposed set-back from the boundary also helps in this regard.

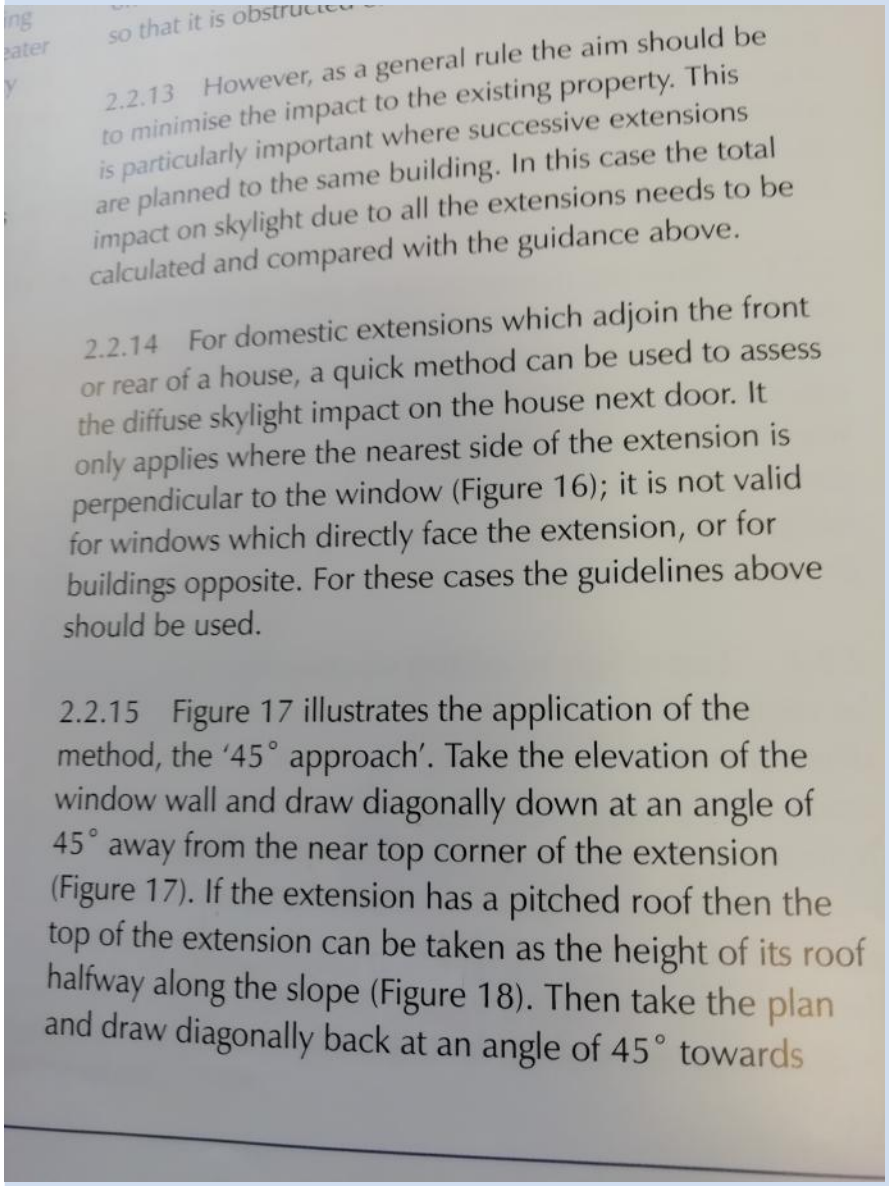
There are no other extensions or obstructions of the type referred to in para 2.2.16 which would influence this conclusion.



This conclusion would apply even if the window was to a lounge or kitchen where daytime activities needing daylight is more important. This is acknowledged in para 2.1.13 of the booklet, which states-

Living rooms and kitchens need more daylight than bedrooms……..

Relevant extracts from the booklet are below-



so that it is obstructed

2.2.13 However, as a general rule the aim should be to minimise the impact to the existing property. This is particularly important where successive extensions are planned to the same building. In this case the total impact on skylight due to all the extensions needs to be calculated and compared with the guidance above.

2.2.14 For domestic extensions which adjoin the front or rear of a house, a quick method can be used to assess the diffuse skylight impact on the house next door. It only applies where the nearest side of the extension is perpendicular to the window (Figure 16); it is not valid for windows which directly face the extension, or for buildings opposite. For these cases the guidelines above should be used.

2.2.15 Figure 17 illustrates the application of the method, the '45° approach'. Take the elevation of the window wall and draw diagonally down at an angle of 45° away from the near top corner of the extension (Figure 17). If the extension has a pitched roof then the top of the extension can be taken as the height of its roof halfway along the slope (Figure 18). Then take the plan and draw diagonally back at an angle of 45° towards

the window wall from the end of the extension. (Note that the section perpendicular to the window is not used here.) If the centre of a main window of the next door property lies on the extension side of both these 45° lines then the extension may well cause a significant reduction in the skylight received by the window. (In the case of a floor-to-ceiling window such as a patio door, a point 1.6 m above the ground on the centre line of the window may be used.)

2.2.16 Like most rules of thumb, this one needs to be interpreted flexibly. For example, if the extension has another extension, or a much larger building, behind it then the daylight from that direction may be blocked anyway. Special care needs to be taken in cases where an extension already exists on the other side of the window, to avoid a 'tunnel effect' (Figure 19). A VSC calculation (see Sections 2.2.5 and 2.2.6) can be used to quantify the loss of light, if required.

2.2.17 Finally, as with the other guidelines in this section, the 45° approach deals with diffuse skylight only. Additional checks will need to be made for the sunlight which may be blocked (see Section 3.2).

both plan and elevation. Here the
lies outside the 45° angle on elevation, so the impa
extension is likely to be small.

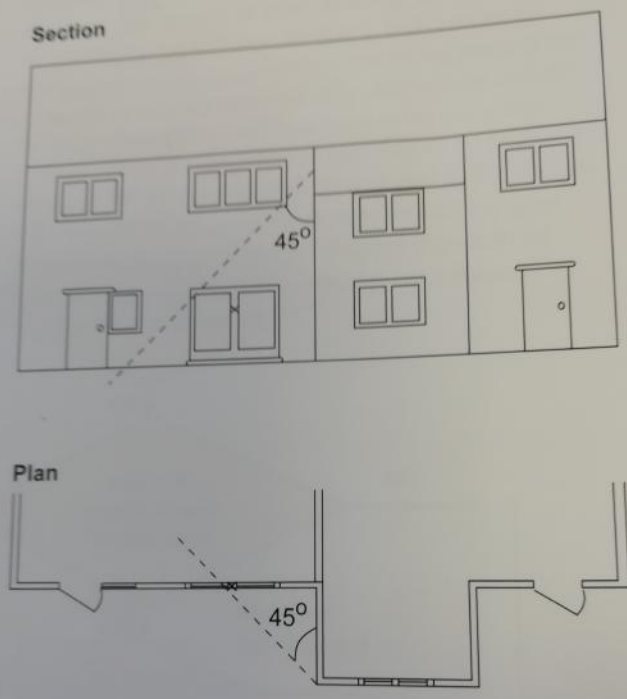


Figure 18: Here the extension has a pitched roof, so a point halfway along the roof slope is used as the start of the 45° line on the elevation. The affected window is a patio door, so a point 1.6 m above the ground has been taken. This point is within the 45° angles on both plan and elevation, so a significant reduction of light is likely.

(see Sections 2.2.5 and 2.2.6) can be used to quantify the loss of light, if required.

2.2.17 Finally, as with the other guidelines in this section, the 45° approach deals with diffuse skylight only. Additional checks will need to be made for the sunlight which may be blocked (see Section 3.2).

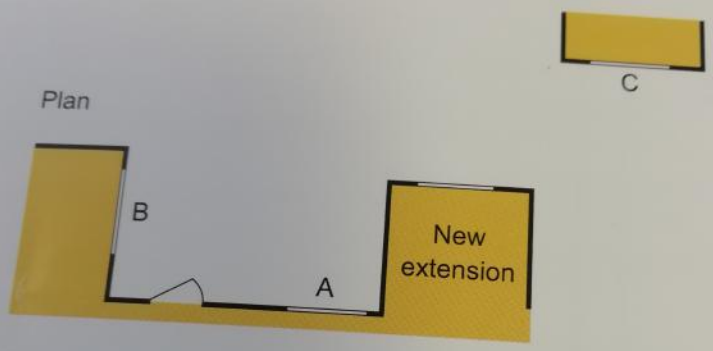


Figure 16: To assess the impact of the new extension, the 45° approach may be used for window A but not for windows B and C which directly face it

2.2.18 The windows of some existing buildings may also have a right to light[5] (see Appendix E). None of the guidelines here is intended to replace, or be a means of satisfying, the legal requirements in the law surrounding the right to light. The assessment of loss of light in rights of light cases is carried out in a different way to the methods given in this BRE guide. It should not

Regarding sunlight this is not a reason for refusal. Sunlight to bedrooms is rarely critical anyway in comparison with lounges or kitchens. The BRE standard for living rooms is as follows-

3.2.11 If a living room of an existing dwelling has a main window facing within 90 degrees of due south, and any part of a new development subtends an angle of more than 25 degrees to the horizontal measured from the centre in a vertical section perpendicular to the window, then the sunlighting of the existing dwelling may be adversely affected. This will be the case if the centre of the window:-

- *Receives less than 25% of annual probable sunlight hours, or less than 5% of annual probable sunlight hours between 21 September and 21 March and*
- *Receives less than 0.8 times its former sunlight hours during either period and*
- *has a reduction in sunlight received over the whole year greater than 4% of annual probable sunlight hours.*

In this appeal, there is unobstructed sunlight from about noon. This means that about half of annual probable sunlight hours would be available to the bedroom. In reality sunlight would also be available over the extension especially in the summer. Thus, the annual probable sunlight hours would be far in excess of the 25% standard and thus the proposals would not compromise the BRE sunlight standards, not forgetting that this a bedroom which is not as important as a living room.

Thus it is concluded that the proposals would not seriously adversely impact on the daylighting and sunlighting amenities of 162 Manor Hall Road, the proposals being wholly in line with national guidance.

The refusal notice also refers to overbearing impact. There cannot be any overbearing impact on the ground floor of 162 because it has been extended out at the rear and lines through with the extended rear walls at the appeal site including the appeal proposals. So the concern can only be with the bedroom window again. The appeal proposal has a single storey appearance when viewed from 162 not 2 storey because the ground floor extension is obscured by a similar extension at 162. Therefore, the proposal, when viewed from the bedroom window should have been assessed as if it were single storey. This is important because the Council standards for single storey extensions are more generous than for first floor ones.

Applying the ground floor standard of 3.5m depth on extensions within 1m of the boundary then the appeal proposal would comply. In fact the extension would only be just within 1m making it even more acceptable. No doubt the Council has formulated its DM Standards cognisant of potential overbearing impacts. Therefore, as the proposal appears single storey when viewed from 162 bedroom and is smaller than allowed for by the policy it cannot follow that it would be overbearing.

Similar observations can be made in consideration of national permitted development rights. Single storey extensions are permitted in this situation of 3m deep and 4m height. If that is acceptable in relation to say, a lounge next door then how can the proposal next to a bedroom be anymore overbearing?

A 45 degree angle on plan from the centre of the bedroom would only be slightly infringed by the proposal. Such a rule of thumb is common. As it is only slightly infringed then it is asserted that the bedroom outlook would not be seriously compromised and therefore there would be no overbearing impacts.

The appellant's needs are for this proposal. He has compromised by setting in the extension about 1m from the boundary and thereby meeting halfway the Council requirements. He has compromised to try and meet the objections. However, he now requires a decision on appeal. He is convinced that the above arguments are powerful planning arguments for allowing the appeal and the Council should be prepared to compromise too.

It is noted that the main concern of the objector at 162 is not the size or position of the extension.

Conclusions

The appellant has a strong need for the extension in this form.

He has compromised by setting the extension 1m off the boundary to protect the amenities of 162.

A detailed lighting assessment has been made in accordance with national standards which demonstrate that the extension would not significantly affect the sunlight and daylight to the bedroom at 162 whilst noting that these standards have less import for bedrooms compared to living rooms.

Taking into account the angle of outlook and national and local policy on extensions, then proposals compare more than favourably in consideration of overbearing impacts.

This is a minor extension which has no public impacts and the principle of which is not opposed by neighbours. There is therefore no basis for a refusal which is not in the public interest.

It is the professional opinion of Planning Direct that this appeal ought therefore to be allowed and the Inspector is cordially invited so to do.