

Recommendation Report for Planning Permission

REF NO: BR/317/18/PL

LOCATION: 86 Annandale Avenue
Bognor Regis
PO21 2EX

PROPOSAL: Erection of a first-floor rear extension & the provision of 2 No. two bedroomed flats (resubmission following BR/42/18/PL).

SITE AND SURROUNDINGS

DESCRIPTION OF APPLICATION	It is proposed to extend above the existing rear single storey extension (which is 4.1m high to the ridge) adding a new floor above and then a further within the new roof space. The extension will be 6m to the underside of the eaves and 9.2m to the ridge. The new building will be 1.1m below the height of the main ridge to the existing two storey building. Both flats will have 2 bedrooms. The first floor flat includes velux rooflights on both sides of the roof and two dormers on the south eastern end. All of the new windows above ground floor level on the side facing no. 84 will be obscure glazed and non-openable. There will be new bin & cycle stores to the side but no car parking is proposed.
SITE AREA	0.0865 hectares.
RESIDENTIAL DEVELOPMENT DENSITY (NET)	Together with the existing 3 flats, this would result in a density of 58 dwellings per hectare.
TOPOGRAPHY	Predominantly flat.
TREES	None affected by the proposed development.
BOUNDARY TREATMENT	* Low flint wall and part 1.4m high close boarded fence along the Annandale Avenue frontage; * 1.4m high brick wall part with 3m high hedge behind along the Chichester Road frontage; * 2m part block work wall, part close boarded fence to the rear; and * 1.8m high wall/close boarded fence to no. 84.
SITE CHARACTERISTICS	Detached two storey corner double fronted building in a mix of light brown/orange brick and grey render/pebble dash with a tiled roof. Light blue/green rendered single storey extension to the rear. The property already comprises of 3 residential flats, two spread across the ground floors and the 3rd within the existing first floor. External staircase on the south western side. Space for one to two off-street parking spaces on the north eastern side. Large rear garden which in part wraps around the rear of no. 84.
CHARACTER OF LOCALITY	Predominantly residential. Mix of houses and flats.

Unrestricted on-street parking on both sides of Annandale Avenue. Double yellow lines on Chichester Road to the side and Longford Road to the rear. No 84 is a two storey building occupied as a single dwelling. It has two rear bedroom windows plus ground floor rear kitchen and study windows.

RELEVANT SITE HISTORY

BR/42/18/PL	2 No. 2 bedroom flats, one on first floor & one on second floor over existing single storey flat.	Refused 26-06-18
BR/74/17/PL	Conversion of the ground floor to create 2 No. self contained flats.	App Cond with S106 09-06-17

The existing ground floor rear extension was approved by virtue of BR/102/03/ to provide a classroom & toilet extension to the then child day nursery.

Application BR/42/18/PL was refused in June 2018 just a month prior to the adoption of the new Arun Local Plan. The refusal reasons were as follows:

(1) The scale of the proposed two floor extension to the rear of 86 Annandale Avenue will result in an overbearing impact on the amenity of the existing rear windows of no. 84 and its garden taking away sunlight during the morning hours. 84's rear garden will also be overlooked by the new residential windows in the south western side of the extension. This will result in a materially harmful impact on the living conditions of the adjacent property and the proposal is therefore contrary to policy GEN7 of the Arun District Local Plan; the National Planning Policy Framework; and policy DDM1 of the Arun Local Plan 2011-2031 Publication Version showing Modifications.

(2) The design of the proposed two floor extension fails to respect the character and appearance of the host dwelling particularly in respect of window designs, window sill heights, detailing & dormers and will this will be harmful to the streetscene when viewed from public viewpoints to the north east. The proposal is therefore contrary to policy GEN7 of the Arun District Local Plan; the National Planning Policy Framework; and policies DDM1 & DSP1 of the Arun Local Plan 2011-2031 Publication Version showing Modifications.

The new application has been subject to informal pre-application negotiation which concluded that the changes put forward in respect of obscure glazing, window positions and window designs would resolve the 2nd refusal reason and the overlooking issue. It was also advised that the "Daylight and Sunlight Assessment" as undertaken by Herrington Consulting Ltd would resolve the light loss issue. However, the overbearing impact on the neighbouring dwelling would remain.

REPRESENTATIONS

REPRESENTATIONS RECEIVED:

Bognor Regis Town Council

"No objection"

One letter of objection from 84 Annandale Avenue raising the following concerns:

- (1) There is inadequate parking on Annandale Avenue for existing properties let alone new flats;
- (2) Loss of light and privacy to 84's rear windows;
- (3) Devaluation of house value; and
- (4) Not in character with existing built form.

COMMENTS ON REPRESENTATIONS RECEIVED:

Items (1), (2) and (4) will be discussed in the report's conclusion. In respect of (3), the impact of new development on house prices is not capable of being a material planning consideration.

CONSULTATIONS

Natural England

Parks and Landscapes

Engineering Services Manager

Engineers (Drainage)

WSCC Strategic Planning

Environmental Health

CONSULTATION RESPONSES RECEIVED:

NATURAL ENGLAND - Comments the same as per BR/42/18/PL namely that: "No objection provided that a contribution is secured towards the mitigation of impacts on the Pagham Harbour Special Protection Area."

WSCC HIGHWAYS - Does not consider that the proposal for two new dwellings would have a 'severe' impact on the operation of the highway network, therefore is not contrary to the National Planning Policy Framework (paragraph 109) and there are no transport grounds to resist the proposal. Consider that the site is sustainably located, within walking distance of Bognor Regis town centre which contains a variety of local shops and services and that there are bus stops are located within metres of the property providing access into Bognor Regis and Chichester. Also that Bognor Regis train station is within short walking distance providing access to Chichester, Brighton, Portsmouth and London. Also note the proposed cycle storage. Do not consider that the nil parking provision would adversely affect highway safety. Recommend a cycle storage condition.

ADC ENVIRONMENTAL HEALTH - No comments received.

ADC PRIVATE SECTOR HOUSING - No comments received. Previously responded (BR/42/18/PL) to say that: "(1) appropriate fire precaution facilities and equipment must be provided of such type, number and location as are considered necessary; (2) room sizes should meet the minimum standards for houses in multiple occupation if the flats are intended to be rented; and (3) must meet the requirements of the Housing Act 2004 and be free of Category 1 and significant Category 2 Hazards."

ADC DRAINAGE ENGINEERS - No objection subject to a pre-commencement drainage condition. State that the proposed development is directly adjacent to an area of high surface water flood risk. As a result, surface water drainage design should be carefully considered. Also that infiltration must be investigated.

ADC GREENSPACE OFFICER - No objection subject to landscaping being secured by condition and the existing trees on the boundaries and to the north east being protected during construction.

COMMENTS ON CONSULTATION RESPONSES:

Comments noted.

POLICY CONTEXT

Designation applicable to site:

Within the Built Up Area;
Pagham Harbour Zone B;
Class A Road; and
Building of Character.

DEVELOPMENT PLAN POLICES

[Arun Local Plan 2011 - 2031:](#)

DDM1	D DM1 Aspects of form and design quality
DDM2	D DM2 Internal space standards
DDM4	D DM4 Extensions&alter to exist builds(res and non-res)
DSP1	D SP1 Design
ECCSP2	ECC SP2 Energy and climate change mitagation
ENVDM1	ENV DM1 Designated Sites of Biodiversity or geographical imp
ENVDM2	ENV DM2 Pagham Harbour
ENVDM4	ENV DM4 Protection of trees
ENVDM5	ENV DM5 Development and biodiversity
HDM1	H DM1 Housing mix
HERDM2	HER DM2 Locally Listed Buildings or Structures of Character
HERSP1	HER SP1 The Historic Environment
HSP1	HSP1 Housing allocation the housing requirement
QESP1	QE SP1 Quality of the Environment
SDSP1	SD SP1 Sustainable Development
SDSP1A	SD SP1a Strategic Approach
SDSP2	SD SP2 Built-up Area Boundary
TDM1	T DM1 Sustainable Travel and Public Rights of Way
TSP1	T SP1 Transport and Development
WDM3	W DM3 Sustainable Urban Drainage Systems
WMDM1	WM DM1 Waste Management

PLANNING POLICY GUIDANCE:

NPPF	National Planning Policy Framework
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POLICY COMMENTARY

The Development Plan consists of the Arun Local Plan 2011 - 2031, West Sussex County Council's Waste and Minerals Plans and Made Neighbourhood Development Plans.

The policies are published under Regulations 19 and 35 of the Town and Country Planning (Local Planning) (England) Regulations 2012.

The Neighbourhood Development Plan

Where applicable, Neighbourhood Development Plan's (more commonly known as a neighbourhood plan or NDP), once made by Arun District Council, will form part of the statutory local development plan for the relevant designated neighbourhood area.

There are no relevant Bognor Regis Neighbourhood Development Plan policies to consider.

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 not considered to comply with relevant Development Plan policies in that it would have a materially adverse effect on the residential amenities of the adjoining properties, fails to address the impact on the existing heritage asset and fails to provide for the necessary mitigation to offset the impact on the Pagham Harbour Special Protection Area.

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 lies within the built up area boundary where development is acceptable in principle in accordance with policy SD SP2 of the Arun Local Plan (ALP) and provided it is in accordance with other policies of the Local Plan covering such issues as character/design, heritage, residential amenity, space standards and highway safety/parking.

Policy SD SP1 of the ALP states: "When considering development proposals the Council will take a positive approach that reflects the presumption in favour of sustainable development contained in the National Planning Policy Framework (NPPF)."

The application site lies within the settlement boundary of Bognor Regis and there are various local amenities and services within walking distance of the site along street lit footways. Bognor Regis Train

Station is a walk or cycle of around 640m and there are bus stops nearby on Longford Road (100-160m) and Chichester Road (180m). The closest food shops are either a Tesco Express near to the Bognor Regis train station (750m) or the Morrisons supermarket in Bognor Regis (900m).

The site also sits within 200m of the Bognor Regis hospital, 600m of the Edward Bryant School in Bognor Regis, 1.2km of Bersted Green Surgery and the same distance to Bersted Green Primary School. It is therefore considered that the proposal is environmentally sustainable as residents will not need to rely on the private car to access basic services & facilities.

NPPF para 118(d) states "Planning policies and decisions should: promote and support the development of under-utilised land and buildings, especially if this would help to meet identified needs for housing". Furthermore, para 123 states where there is an existing or anticipated shortage of land for meeting identified housing needs, it is especially important that planning decisions avoid homes being built at low densities, and ensure that developments make optimal use of the potential of each site. Higher densities will be encouraged for city/town centres and other locations that are well served by public transport.

The proposal accords with SD SP1 and SD SP2 of the Arun Local Plan and with the guidance in the NPPF on the efficient use of land.

HERITAGE ASSETS:

No. 86 Annandale Avenue is a locally designated Building of Character. As such policy HER DM2 is relevant and states that alterations or extension of Buildings of Character will be expected to relate sensitively to the building or structure and its setting and respect its architectural, landscape or historic interest. Also that features of such buildings which contribute to these interests will be preserved.

Paragraph 189 of the National Planning Policy Framework (NPPF) requires applicants to describe the significance of any heritage assets affected, including any contribution made by their setting. Para 190 then requires that Local Planning Authorities identify and assess the particular significance of the heritage asset that may be affected by a proposal. It is then necessary to consider the level of harm associated with the proposal and if there is 'less than substantial harm' or 'substantial harm' it is necessary to assess the level of public benefit (paragraphs 193-196).

The applicants have not supplied either a standalone Heritage Statement or incorporated one into the submitted "Planning Design & Access Statement". As such, the application is in conflict with paragraph 189 as in the absence of heritage supporting information, it has not been possible to consider whether the proposal will result in any harm to the significance of the heritage asset and its interest levels.

It is therefore considered that the proposal fails to comply with paragraph 189 of the NPPF or policy HER DM2 of the ALP.

CHARACTER AND DESIGN:

Policy D DM1 of the Arun Local Plan requires that the Council seek to make the best possible use of land by reflecting or improving upon the character of the site and the surrounding area. It requires the Council to consider scale, massing, aspect, siting, layout, density, building materials, landscaping, and design features. It is necessary that development demonstrates a high standard of architectural principles, use of building materials and hard and soft landscaping to reflect the local area. In terms of density, D DM1 requires that housing makes efficient use of land while providing a mix of dwelling types and maintaining character and local distinctiveness. Higher densities will be more appropriate in the most accessible locations. The policy requires the scale of development keep within the general confines of the overall character of a locality.

ALP policy D SP1 "Design" requires development to make an efficient use of land and also reflect local character. Policy D DM4 requires that extensions/alterations: sympathetically relate to and are visually integrated with the existing building in siting, massing, design, form, scale & materials; are visually subservient to the main building & provide a high standard of amenity; do not create a terracing effect where no terrace exists; and do not compromise the established spatial character & pattern of the place.

The building is already in a flatted use and there are other flatted buildings in the locality. As such, there is no objection to the principle of flats in this location. Furthermore, the proposal does not seek to exceed the existing eaves or ridge heights.

The previous application was deemed to be unacceptable having regard to the design of new windows in comparison with existing windows, the use of soldier courses above & below windows (also not present on the host building), the first floor sill heights of windows (which do not match with those in the existing flank elevations) and the use of dormers in the roof. The previous scheme also proposed to render the walls not use brick to match the host dwelling.

The present scheme has been amended to take account of these concerns and now matches with the existing window designs, does not incorporate soldier courses, removes the dormers from the flank roof planes and better reflects the existing window sill heights. Render is still shown but this does at least match with the existing single storey extension and materials could in any case be considered and controlled by condition. The dormers on the rear are acceptable as they do not dominate the whole building due to their position and are also small scale features. The appearance is considered to be acceptable and there is no conflict with policies D DM1, D SP1 and D DM4 of the ALP in terms of appearance.

PARKING PROVISION:

Policy T SP1 seeks to ensure development: provides safe access on to the highway network; contributes to highway improvements & promotes sustainable transport, including the use of low emission fuels, public transport improvements and the cycle, pedestrian and bridleway network. In respect of parking, it states: "The Council will support transport and development which: incorporates appropriate levels of parking in line with West Sussex County Council guidance on parking provision and the forthcoming Arun Design Guide taking into consideration the impact of development upon on-street parking". In addition, policy T DM1 requires that new development be located within easy access of established non-car transport modes/routes and also seek to contribute to the improvement of such routes & facilities.

Paragraph 108 of the NPPF states: "In assessing sites that may be allocated for development in plans, or specific applications for development, it should be ensured that: (b) safe and suitable access to the site can be achieved for all users". Regard should be had to para 109 which states that: "Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe."

If this scheme were to be approved then the extended building would be occupied by 5 flats. The site already benefits from a vehicular access into the area on the north east side of the existing building and this is typically occupied by 1 car but could at a push, accommodate 2 cars, parked in tandem. The proposal does not seek to provide any additional parking.

WSCC Highways have assessed the application and raise no objections in respect of vehicle or pedestrian safety and therefore, it would not be possible to sustain a refusal on these grounds. In respect of parking, WSCC consider that although there is a shortage of parking spaces in the immediate vicinity there are comprehensive parking restrictions prohibiting vehicles from parking in places that

would be detrimental to highway safety. They also consider that the site is sustainably located, within walking distance of Bognor Regis town centre and nearby bus stops

The concerns of the neighbour are noted. However, this is a highly sustainable location and as such, residents do not need to own a car in order to access places of employment, schools, shops and other necessary facilities. Furthermore, the existing situation with parking on Annandale Avenue is likely to deter any future residents who own a car and instead appeal strongly to those who do not.

The previous application was not considered to be inappropriate in terms of parking and there is no reason to take a different view now. On this basis, it is considered that the proposal complies with the NPPF and the relevant policies of the development plan.

RESIDENTIAL AMENITY:

Policy D DM1 requires the Council have regard to certain aspects when considering development including having minimal impact to users and occupiers of nearby property and land. Policy D DM4 requires that extensions/alterations: sympathetically do not have an adverse overshadowing, overlooking or overbearing effect on neighbouring properties. Regard should be had to para 127 of the NPPF which states that developments should provide a high standard of residential amenity for existing and future users.

Policy QE SP1 states: "The Council requires that all development contributes positively to the quality of the environment and will ensure that development does not have a significantly negative impact upon residential amenity".

The previous application was considered to be unacceptable and in conflict with the policies of the development plan in respect of harm to the living conditions of the neighbouring property to the southwest (84 Annandale Avenue). This was for the reasons of overbearing impact, loss of sun/daylight and overlooking.

In response, the applicant has amended the scheme to remove the dormers in the flank roof planes and to reduce the number of windows in the south west elevation on the first and second (roof) levels. These remaining windows have also been shown as non openable and obscure glazed such that the new residential occupiers will not be able to look out of these windows into the neighbours rear garden or towards their rear windows. In addition, the applicant has provided a "Daylight and Sunlight Assessment". This concludes that the reduction in day and sun light to the neighbours windows is less than what would be considered to be a notable impact. Therefore, it is accepted that there will be no harmful loss of sun or day light to the neighbours.

However, the scheme has not been amended in terms of its rear depth or height and it is not considered that the changes to the windows/dormers alter the previous conclusion that the scheme will result in an overbearing impact on the neighbouring property. The new two floor extension will add a further 5.1m to the height of the existing ground floor extension and will add 11m of new depth at first floor and roof levels. The extension will be due north east of the neighbouring property and will be only 2-2.5m from the boundary (3m from the 84 itself).

It is accepted that the common boundary with 84 comprises a 1.8m high part fence/part wall and that there are substantial trees approximately 6 metres in height. However, as the supplied CGI image shows, the new extension will still be visible from the neighbouring property and it is considered that it will be a domineering and overpowering addition to 84's existing outlook.

The proposal is therefore considered to be in conflict with ALP policies D DM1, D DM4 and QE SP1.

INTERNAL & EXTERNAL SPACE STANDARDS:

Policy D DM2 states: "The planning authority will require internal spaces to be of an appropriate size to meet the requirements of all occupants and their changing needs. Nationally Described Space Standards will provide guidance". It is therefore necessary to assess the proposal against internal space standards set out in the Governments Technical Housing Standards (Nationally Described Space Standard) to determine if the building is suitable for residential use.

The stated requirement for a single storey, 2 bedroom, 4 person flat (base on two bedrooms each exceeding 11.5m²) is 70m². The proposed internal space for the first floor flat is considered to be 67.3m² whilst the first floor flat has an area of 71.3m². The first floor flat is therefore short of the standard. However, this is acceptable on the grounds that the shortfall is not significant and that policy D DM2 is clear that the national space standards are for guidance only.

Policy D DM1 refers to the need for compliance with the Arun Design Guide. This is to part replace D DM3 "External Space Standards" which was deleted at the request of the Local Plan Inspector. Until this Design Guide is published, there is no policy within the ALP regarding private gardens sizes. Para 127 of the NPPF states that planning decisions should ensure that developments have a high standard of amenity for existing and future users. The application site benefits from a large rear communal garden and this is considered to provide an acceptable level of amenity space for the new occupants.

The proposal therefore complies with policies D DM1 & D DM2 and with the guidance within the NPPF (para. 127).

PAGHAM HARBOUR:

Policy ENV DM2 of the Arun Local Plan requires that all new residential developments within a 400m to 5km distance ('Zone B') of Pagham Harbour make a financial contribution towards the provision of accessible natural open green spaces to serve the area. A contribution of £1,275 per new residential unit was agreed by the Councils Cabinet on 20 July 2015. The report to Cabinet stated that:

"The access management measures identified are referred to as Strategic Access Management and Monitoring (SAMMs). As these do not include the allocation of specific land, they are not classified as physical infrastructure, and are not included under the definition of infrastructure within Section 216 of the Planning Act 2008, meaning the pooling restrictions as set out under Regulation 123 of the CIL Regulations (2010) as amended, do not apply. It is common practice by many other authorities (for example Elmbridge) that contributions towards SAMMs are gathered through S106 planning obligations. This approach has also been confirmed within Counsel advice sought by the Council. As a contribution is required to make the development acceptable in planning terms, it is therefore in compliance with the tests under Regulation 122 of the CIL Regulations (2010) as amended"

The Councils Cabinet subsequently approved a reduction in the tariff from £1,275 to £871 as of the 10th April 2017. Paragraph 014 (Reference ID 23b-014-20160519) of the Planning Practice Guidance describes tariff style contributions. It clearly states that these consist of contributions to pooled funding 'pots' intended to fund the provision of general infrastructure in the wider area. The Council accepts that the Pagham Harbour contribution is based on a tariff. However, the contribution is required to fund strategic access management and monitoring measures (SAMMs) which are necessary to meet the requirements of European law (transposed into English law through the Conservation of Habitats and Species Regulations 2010). Essentially this requires the Council to maintain, if not improve, the existing condition of the site.

As these SAMMs do not include the allocation of specific land, they are not classified as physical infrastructure, and are not included under the definition of infrastructure within Section 216 of the Planning Act 2008, meaning that the pooling restrictions as set out under Regulation 123 of the CIL Regulations (2010) as amended, do not apply.

Therefore, it is considered that the Council is able to seek these contributions despite the guidance in PPG Paragraph 031 (Reference ID: 23b-031-20160519009) that tariff style planning obligations should not be sought from small scale developments. This has also been tested at appeal on several occasions. For example, APP/C3810/W/16/3146804 which concerned a single dwelling in nearby Aldwick.

This contribution is now required for all new residential developments within Zone B. The applicant has not been able to provide an acceptable legal agreement to secure this payment and therefore the application is currently contrary to policy ENV DM2 of the Arun Local Plan.

SUMMARY:

There is no in principle objection to further residential development on this site within the built up area and it is considered that the proposal complies with development control criteria concerning highway safety, parking, internal space standards, character and overlooking/light loss. However, notwithstanding, it is considered that the proposed two floor extension will have an unacceptably overbearing impact on the amenity of the adjoining residents. Furthermore, the application has not addressed the potential for harm to this locally listed building and there is no legal agreement in place to secure the required Pagham Harbour mitigation measured. It is therefore recommended that the application be refused for the following reasons.

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 (Right to respect private and family life), 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 the following impacts 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).

The proposal would have a neutral impact on the protected characteristics.

RECOMMENDATION

REFUSE

- 1 The scale of the proposed two floor extension to the rear of 86 Annandale Avenue will result in an overbearing impact on the amenity of the existing rear windows of no. 84 and its garden causing harm to the living conditions of the occupants. The proposal is therefore contrary to policies D DM1, D DM4 and QE SP1 of the Arun Local Plan and the guidance on good design within the National Planning Policy Framework (paragraph 127).
- 2 In the absence of a signed legal agreement, the application fails to make a financial contribution towards the cost of providing accessible natural open green spaces to mitigate the impact of the new residential occupants on the Pagham Harbour Special Protection Area and the proposal is therefore not in accordance with policies END DM1 and ENV DM2 of the Arun Local Plan and the guidance within the National Planning Policy Framework.
- 3 In the absence of a Heritage Statement, the application fails to give due regard to the impact of the proposals on non-designated heritage assets and is therefore contrary to policy HER DM2 of the Arun Local Plan and paragraph 189 of the National Planning Policy Framework.
- 4 **INFORMATIVE:** Statement pursuant to Article 35 of the Town and Country Planning (Development Management Procedure)(England) Order 2015. 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.