

C16371/05

C16371A/05



## Appeal Decision

Hearing held on 30 November 2006

Site visit made on 30 November 2006.

by **J Mansell Jagger MA(Cantab) DipTP MRTPI IHBC**

an Inspector appointed by the Secretary of State for  
Communities and Local Government

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Date

- 2 JAN 2007

**Appeal A: APP/N5090/A/05/1193965**

**Appeal B: APP/N5090/A/06/1199089**

**14 Dollis Avenue, London N3 1TX**

- The appeals are made under section 78 of the Town and Country Planning Act 1990 against refusals to grant planning permission.
- The appeals are made by Dorchester Sparks Ltd against the decisions of the London Borough of Barnet.

### Appeal A

- The application ref: C16371/05, dated 25 August 2005, was refused by notice dated 12 October 2005.
- The development proposed is demolition of existing house, garages and ancillary buildings, erection of four-storey block of 9 flats with semi-basement car park.

### Appeal B

- The application ref: C16371A/06, dated 31 March 2006, was refused by notice dated 30 May 2006.
- The development proposed is demolition of existing house, garages and ancillary buildings, erection of four-storey block of 7 flats with semi-basement car park.

**Summary of Decisions: The appeals are dismissed.**

### Preliminary Matters

1. The second reason for refusal of both applications referred to the absence of an undertaking by the developer in respect of a financial contribution towards additional educational costs that would be incurred by the community as a result of the proposed development. At the Hearing, the appellant submitted a Unilateral Planning Obligation (UPO) under section 106 of the Town and Country Planning Act 1990. The Council was not inclined to accept the UPO without time to consider the document and it was agreed that, if I were to allow either appeal, I would deal with the matter by way of a suitable condition.
2. Two applications for award of costs were made at the Hearing; the first, in respect of Appeal A, on behalf of the London Borough of Barnet for a full award of costs against the appellant and the second, in respect of Appeal B, on behalf of the appellant for a partial award of costs against the London Borough of Barnet. These applications are the subject of separate Decisions.

### Main Issues

3. The main issues are as follows:
  - 1) The effect of the proposals on the character and appearance of the area.
  - 2) The effect of the proposals on the amenities of adjoining residents, particularly with regard to daylight and sunlight, outlook and privacy.
  - 3) The effect of the proposal on car parking, traffic flow and road safety (Appeal B)

**Planning Policy**

4. The development plan for the area includes the London Plan (LP) 2004 and the Barnet Unitary Development Plan (UDP) 2006.
5. LP policies 3A.1 and 3A.2 are concerned with increasing the provision of additional housing from all sources. Policy 4B.1 seeks, among other things, to ensure that new developments should maximise the potential of sites and be accessible, but also respect local context, character and communities.
6. UDP Policy GBEnv1 is a general policy to protect and enhance the environment. Policies D2 and D3 require new buildings and the spaces around buildings to respect the character and appearance of the surrounding area. Policy D4 seeks to avoid over-development, whilst D5 aims to protect the amenities of adjoining occupiers. Policy H16 states that new residential developments should harmonise with and respect the character of the area; be well laid out in terms of access, car parking and landscaping; preserve adequate daylight and outlook; and prevent overlooking.
7. Policy CS8 requires developers to enter into a planning obligation to meet extra educational costs incurred as a result of the development. The Council approved Supplementary Planning Guidance (SPG) on *Educational Needs Generated by New Housing Development*, in August 2000.
8. Policies from the previous UDP (1991) were referred to in the Refusal Notice for the first application, but they have been superseded by the 2006 adopted UDP.
9. Relevant Government guidance is set out in Planning Policy Guidance Note 3 (PPG3): *Housing* and Planning Policy Statement 1 (PPS1): *Delivering Sustainable Development*.
10. In June 2005 the Council published *The Three Strands Approach*, which has, as one of its aims, the protection of the character of the traditional lower density suburbs in the Borough. The Council intends to take this forward in the preparation of the Local Development Framework (LDF), but as it is not a formal planning document it carries little weight at this stage.

**Reasons**

*The Site*

11. Dollis Avenue is an attractive tree-lined road in a well-established residential area, consisting mainly of two or sometimes three-storey, medium to large sized houses in mature gardens. Although there is often no great distance between the houses, the density of the frontage is offset by the depth and size of both front and rear gardens and the vegetation, particularly trees, within and around them. There are four purpose-built blocks of flats in the road but, given that they represent a small proportion of the number of properties in the road, they cannot be said to be characteristic of Dollis Avenue.
12. The appeal property is a large two-storey house in mock Tudor style on the east side of the road, set well back from the street frontage and occupying a large plot. About a third of the rear garden is grassed, the remainder being semi-wild and well treed. On the north side is Georgian Court (No.16), a three-storey block of flats in Neo-Georgian style, the top storey being accommodated in a tall, false mansard roof. Adjoining on the south are a pair two-storey detached houses (Nos.10 and 12), in smaller plots, again

with Neo-Georgian elements and a third storey in the roof space.

#### **Appeal A**

##### *Character and Appearance*

13. The proposed building would be significantly higher and wider than the existing house and more than twice as deep. The footprint represents an increase of some 250% over that currently existing. From the road the frontage would appear as four storeys and at least one storey higher than the buildings on either side. Even though an attempt has been made to reduce its impact by the use of false mansard and swept roofs, the size and bulk of the building would not only be considerably greater than Georgian Court, which is itself larger than other properties in the immediate vicinity, but would dwarf Nos.10 and 12 and the houses on the opposite side of Dollis Avenue. The increased length of the building and the horizontal scale of the windows and dormers would accentuate its size.
14. The depth of the frontage would be reduced from 10.00m to 7.70m, to line up with Georgian Court, but well forward of Nos.10 and 12, bringing the building into much greater prominence in the street scene. The lack of trees on the frontage would expose the building to views along the street and there would be little opportunity for screen planting of any size. The bulk and mass of the building would be evident from the road in oblique views of the side elevations. The result would be a building that would be dominant and overpowering in the street scene and out of scale with other buildings in the road.
15. The building would take up most of the open, grassed area at the rear and extend as far as the end of the rear gardens of Nos.10 and 12. The sense of spaciousness, which is a characteristic of the area, would be lost and the proposal would, in my view, represent over-development of the site.
16. There is little consistency in the design and, for example, the mixture of window shapes, sizes and proportions and the juxtaposition of roof planes, seems to have no rationale. The side elevations are particularly poor in this respect.
17. I understand the appellant's view that the proposal would maximise the efficient use of urban land, but PPG3 makes it clear that, in raising densities, local character should be respected and the quality of the environment not unduly compromised.
18. Because of its height, size, bulk, scale and massing, I conclude that the building would represent over development of the site, over-dominate the neighbouring properties and be out of keeping with the character and appearance of the area. The proposal would therefore conflict with development plan policies (LP) 4B.1 and (UDP) GBEnv1, D2, D3 and D4.

##### *Amenities of Adjoining Residents*

19. Although, at ground floor level, the side of the new building would be no closer to No.12 than the existing house, the greatly increased depth and bulk of the building would be clearly evident from the balcony and rear garden of No.12. On the north side, the building would be far closer than the existing house to the side of Georgian Court, where there are habitable rooms with windows that would look directly out onto the new building. Although there is some element of screening from vegetation on the boundary with Georgian Court, I believe that the proposed building would be

oppressive and overbearing on the outlook of residents of both Georgian Court and No.12.

20. Three second-floor rooms on the south side of the new building have dormer windows that would overlook the balcony of No.12, which would clearly detract from the neighbours' enjoyment of their balcony. Although two of the rooms have other windows, the central one, a bedroom, does not and it would not be acceptable to use obscure glazing in this case. The windows at upper ground floor level of the proposed building are relatively small but it is possible that people using the balcony of No.12 would be able to see into those rooms
21. From the plans and a view of the site from within the garden of No.14, it would appear that there could be mutual overlooking of windows of habitable rooms in both the new building and Georgian Court, though since it was not possible to view the site from inside Georgian Court, this could not be confirmed.
22. There would be a series of stepped terraces at the rear of the building, and although the provision of 1.70m high obscure-glazed screens would prevent direct side views, it is likely that the garden of No.12 would be overlooked in angled views from these terraces, particularly at first and second floor level. This would lead to a significant loss of privacy for the neighbours and detract from their reasonable enjoyment of their private garden space.
23. Property Consultants G L Hearn were commissioned by Mr and Mrs Davis at No.12 Dollis Avenue to assess the effect of the proposed development on the daylight amenity to their property and to Georgian Court. Using the 'vertical sky component' (VSC) recommended in BRE Report 209 *Site Layout Planning for Daylight and Sunlight: A Guide to Good Practice* (1991), they concluded that the windows tested to each of the properties would suffer a significant reduction in the level of daylight admitted to the rooms they serve. In their view, the proposed development would fail to meet the guidelines set out in the BRE Report and therefore fail to meet the daylight requirements under UDP policy D5.
24. The appellant commissioned a study of the effect of the proposal on daylight and sunlight in relation to the second scheme that is the subject of Appeal B, but not for the first scheme. The appellant claimed that the methodology used in that study would be appropriate in both cases but, in the absence of specific evidence to the contrary I accept that the proposal in Appeal A could result in a reduction of daylight received in the kitchen of No.12 and two habitable rooms in flats in Georgian Court, which could materially affect the living conditions of the occupiers of those properties. Since the proposed building in Appeal A would be closer to Georgian Court than that in Appeal B, it would be reasonable to conclude that the impact on that property, in relation to daylight and sunlight, would be greater in this first case.
25. For these reasons I conclude that the proposal would have a detrimental effect on the residential amenity of neighbours at No.12 Dollis Avenue and Georgian Court, particularly with regard to daylight, outlook and privacy. It would therefore conflict with UDP policies D5 and H16.

**Other Considerations**

26. Local residents are concerned that the development would not provide enough car parking and that future occupiers and visitors would park on the road, adding to the

current problems of too much traffic and congestion at the junctions with Hendon Road and Hendon Lane. However, the number of spaces proposed meets the Council's approved car parking standards and I note that the highway Authority has not objected. In the absence of specific evidence to the contrary, I conclude that the proposal would be unlikely to result in any significant harm to highway safety.

#### **Appeal B**

##### *Character and Appearance*

27. This proposal is for a revised scheme, of a different design, with the number of flats reduced from nine to seven. The building is similar in width to the previous proposal, but would be closer to No.12. The central terrace part of the front elevation would project well forward of the building line of Georgian Court, which is itself further forward than most of the properties in the area, further reducing the depth of the frontage to Dollis Avenue. On the south side the building would project about 4.50m in front of No.12 and about 11.00m at the rear.
28. The total footprint of the building appears to be even larger than in the previous scheme and again would occupy most of the existing open area at the rear and extend to the full depth of the gardens of Nos.10 and 12. The characteristic sense of spaciousness would be lost and, like the previous scheme, I believe this proposal would represent over-development of the site.
29. An attempt has been made to reduce the impact on the street scene by lowering the building, so that the frontage would appear as three storeys above ground level, and introducing 'catslide' roofs at the sides. The appellant argued that the building had been redesigned to take account of the Council's concerns and designed to have the appearance of a large single-family house. Although the architectural design has been improved, it cannot disguise the real height, bulk and mass of the building, which would be clearly evident in oblique views from the road and from adjoining properties. In my opinion, the building would be over-prominent and overbearing in the street scene and out of scale with other buildings in the road.
30. Because of its height, size, bulk, scale and massing, I conclude that the building would represent over development of the site, over-dominate the neighbouring properties and be out of keeping with the character and appearance of the area. The proposal would therefore conflict with development plan policies (LP) 4B.1 and (UDP) GBEnv1, D2, D3 and D4.

##### *Amenities of Adjoining Residents*

31. At its closest point, the new building would be only about 1.50m from the side of No.12. I accept that the angle of the 'catslide' roof planes would not be significantly different from the existing and that the building would be dug into the ground and step down in a series of terraces at the rear; nevertheless, the greatly increased depth and bulk of the building at both front and rear would be oppressive and have an overbearing impact on the neighbours' outlook from their balcony and garden.
32. In order to avoid overlooking between the proposed flats and No.12, the drawings show obscure glazing to the lower half of roof lights to two bedrooms at second floor and penthouse level. It was apparent from the site visit that most of the window area of bedroom 2 of Flat 4 at first floor in the proposed building would need to be obscure-glazed, in order to avoid direct overlooking from the balcony of No.12. The problems of

overlooking or the impression of overlooking would affect not only the amenity of the neighbours at No.12, but also the living conditions of future residents in the proposed flats. The problems arise when habitable rooms are too close to adjoining property and it seems to me that obscure glazing is not a satisfactory solution in this case.

33. There would be wide terraces at the rear at first and second floor level. As in the earlier scheme, the provision of obscure-glazed screens would prevent direct sideways views of the garden of No.12, but would not prevent angled views, nor overcome the impression of overlooking or potential loss of privacy that would significantly detract from the neighbours' reasonable enjoyment of their property.
34. The appellant commissioned a report by Gordon Ingram Associates (GIA) on the impact of the proposal on daylight and sunlight received by No.12 and Georgian Court. The report acknowledges that, using the VSC method, a number of windows in these properties would suffer a reduction in the amount of daylight received. However, the GIA report uses the 'Average Daylight Factor' method, which it says is more refined. Using this method, GIA concludes that the affected rooms in both properties would meet BRE guidelines. In relation to winter sunlight, GIA say that one window in Georgian Court would receive slightly beneath the recommended level within the BRE guideline.
35. G L Hearn acting for Mr & Mrs Davis concluded that, because the building would be closer to No.12 and of greater mass in front of overlooking fenestration, the revised scheme would have an even worse effect on No.12 Dollis Avenue.
36. It is a matter of contention whether the effect of the proposed building on the daylight and sunlight received by the adjoining properties would be acceptable in terms of the BRE guidelines and the Council's policies, but the fact that there would be some reduction is not disputed. I conclude that because of the combined detrimental impact on daylight, outlook and privacy, the proposal would fail to protect the residential amenities of adjoining residents, especially at 12 Dollis Avenue, and would therefore conflict with UDP policies D5 and H16.

*Car Parking, Traffic Flow and Road Safety*

37. The Council's main concerns were with the access to the basement car park, particularly in relation to the steepness of the ramp, the sharp turn at the bottom of the ramp and the position of the waiting bay, which, without signal controls, would be detrimental to highway safety and the free flow of traffic.
38. It is clear that there would be limited space for manoeuvring of vehicles, both in the access and within the car park area. At the foot of the ramp, drivers of large cars would have to apply full lock and travel at no more than 5mph to avoid hitting a wall or risk grounding. However, the studies carried out by traffic consultants PMA show that the technical requirements for vehicle manoeuvrability, ramp gradient and access and egress would be met, though the appellant agreed that a signal system would be necessary, for which further details could be supplied and agreed through a suitable condition. The Council accepted that there was no great problem with the visibility splays.
39. I was assured that the issue of potential pedestrian/vehicular conflict with residents using the refuse and cycle stores in the basement could also be resolved through the signal system and that the location and operation of security doors could be dealt with

by submission of further details.

40. Local residents were concerned that the number of flats would generate a demand for more car parking than was proposed, which would lead to more on-street parking and increased levels of traffic that would cause problems, particularly at the junctions with Hendon Lane and Hendon Avenue. At the Hearing, the Council expressed concerns that the constraints to access and manoeuvrability in the basement car park might cause residents to park on the road.
41. However, the number of car parking spaces proposed meets the Council's parking requirements set out in the UDP. Additionally, the Council did not dispute the findings of the parking beat survey carried out by PMA, which showed sufficient availability of on-street parking spaces in the vicinity to cater for any additional parking arising from the proposed development.
42. I conclude on this issue that, subject to agreement on signal controls and further details regarding security gates, the proposal would provide a satisfactory number of spaces and management regime and would not result in significant risk to highway safety or the free flow of traffic. It would, therefore, not conflict with the relevant development plan policies.

#### **Conclusions**

43. Although the proposals would meet the Council's car parking requirements and not cause undue risk to highway safety or the free flow of traffic, I have concluded on both appeals that the proposals would represent over-development of the site, be out of keeping with the character and appearance of the area, and have a detrimental impact on the residential amenities of adjoining residents. I have considered all other matters raised but, for the reasons given above, I conclude that the appeals should be dismissed.

#### **Formal Decision**

44. I dismiss these appeals.

*J Mansell Jagger*

INSPECTOR







# Appeal Decision

Site visit made on 1 September 2008

by **Martyn Single DipTP MRTPI**

an Inspector appointed by the Secretary of State  
for Communities and Local Government

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**Decision date:**  
**15 September 2008**

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**Appeal Ref: APP/N5090/A/08/2070055**  
**14 Dollis Avenue, Finchley, N3 1TX**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Aramis Developments Ltd against the decision of the Council of the London Borough of Barnet.
- The application (Ref C16371C/07), dated 19 December 2007 was refused by notice dated 6 March 2008.
- The development proposed is demolition of existing house and erection of 5 no residential apartment units in one self-contained block.

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## Decision

1. I dismiss the appeal.

### Preliminary Matter

2. It is evident that there were some inconsistencies between the submitted drawings showing the proposed floor plans and north side elevations in respect of windows to first floor apartments C and D. Amended drawings nod. F417/P100/A and P201/A have been submitted with the appeal documents to address the discrepancies. I am satisfied that I can consider these drawings without prejudice to the interests of either the main parties or local residents.

### Main Issues

3. There are two main issues in this appeal, the first being the effect of the proposal on the character and appearance of the area. The second is its effect on the amenities of adjoining occupiers with particular regard to its impact on their outlook.

### Reasons

4. The appeal property is a large two storey dwelling on a very substantial plot in an established residential suburb. I note that two earlier appeals on the site in respect of a greater number of flats were dismissed in January 2007. It is the basis of the appellant's case that the current appeal proposal has taken account of the concerns expressed by the previous Inspector in determining those appeals. I have also noted that the current proposal has been the subject of both pre and post application negotiations with the Council's officers in seeking to secure a development proposal that would
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overcome previous objections, and that the recommendation to the Planning Committee was to grant permission.

5. In connection with this appeal I have received a significant number of representations from local residents raising a range of concerns. However, I consider that several of these cover matters that are not the subject of dispute between the Council and the appellant and were not of concern to the Inspector in 2007. I therefore propose, prior to dealing with the main issues set out above, to establish that there is no objection in principle to the development of this site for a more intensive form of development than a single dwelling. Making more effective use of land is a key principle of government policy, to which the appellant makes extensive reference, and I have come to the view that Dollis Avenue has not reached the point where new apartment development should, as matter of principle, be resisted. Although there are some apartment developments of various styles the avenue as a whole still comprises predominantly large family dwellings, and the issue before me is whether this particular proposal with its siting and form of building would compromise the quality of the environment in the terms used in Planning Policy Statement 3 *Housing* (PPS3).
6. Likewise I believe that concerns regarding traffic, impact on trees, and noise and disturbance are not substantiated in the submissions. The development would provide adequate basement parking within the footprint of the building and on my site visit I considered closely its proximity to existing trees. Any loss would be predominantly of small fruit trees or those of inferior quality.

*Character and appearance of the area*

7. Dollis Avenue has an attractive verdant and mature character, not only from being lined with highway trees but from the amount of landscaping and tree planting within individual curtilages. Contributing to its character is the fact that whilst some of the properties extend close to their respective side boundaries they are set well back from the road with generous front gardens, and this applies equally to more recent apartments as it does to individual dwellings.
8. Because of the intensity of greenery, at least in the summer months, some of the properties are quite well screened in more distant views in the street scene. The existing dwelling on the site is very substantial, with a double gabled front elevation, but is screened by existing deciduous trees along the northern site boundary. When not in leaf, however, these trees would not be so effective. The existing dwelling is set back behind the building line of Georgian Court to the north whereas the proposal before me would align with it. In this regard I believe the appellant to have addressed previous concerns, particularly having recessed the section closest to Georgian Court by about 6.5 metres for a width of 6 metres by the use of the cruciform footprint.
9. Although I consider this to now lead to the proposal having a more acceptable impact on the character and appearance of Dollis Avenue from that particular direction I do not consider this to apply from the opposite

side. The neighbouring dwellings, nos. 12 and 14 respect what I would regard as the more traditional building line in Dollis Avenue which has contributed to its character. The existing dwelling also follows that alignment whereas the new proposal, even with its cruciform footprint, would stand substantially forward of the established building line. Being on the outside of the shallow bend and with a more open aspect from this side I believe that the mass of the side elevation, shown clearly on drawing no. F471/P201/A, with its high gabled roof extending above the main ridge of the property would be extremely dominant in the street scene. The depth of the whole building at about 25 metres would contrast with the overall pattern of property in the vicinity. I acknowledge that Georgian Court to the north has a depth of about 19 metres overall but there are aspects of that development that convince me that particular care needs to be taken in the design of such apartment proposals where they are to be integrated into the overall mass and scale of an established and traditional street scene. The appeal proposal would have greater depth than Georgian Court and would have more than twice the depth of its neighbours to the south.

10. The Council's decision letter refers to the height of the proposal and, in this respect, I consider the appellant to have put forward a design which, when viewed directly from the front, would respect the height of adjoining properties. On this ground alone it would not have an adverse impact. The Inspector in January 2007 expressed concern at the overall length of the building, by which I take it to mean its built frontage. The new proposal is only slightly narrower but I am satisfied that this is not an issue of concern with this scheme because of the overall reduction in height and recognition of neighbouring ridge heights. Therefore, from the front my concern is in respect of its mass, siting and scale of projection well forward of the adjoining properties at nos. 10 and 12 when seen approaching from the direction of Hendon Lane. The cruciform design to lessen its impact in this regard is inadequate and the building would appear very dominant and out of character.
11. Having regard to these factors I acknowledge that the appellant has substantially reduced the footprint and the number of flats from the previous proposals; reflected the height of adjoining properties; and produced a design that would be more compatible with its surroundings. However, these matters are outweighed by the design and mass of the building in oblique views from the south where there is a more open aspect. The mass of the projecting front gable and the substantial scale of its ridge, extending almost 22 metres to the back of the block, would appear unacceptably dominant and incongruous. I conclude that it would be out of keeping with the character and appearance of the area contrary to Policies GBEnv1, D2, and D4, of the Barnet Unitary Development Plan 2006.

*Impact on adjoining occupiers*

12. Georgian Court to the north is a somewhat unusual design having side facing windows on upper floors on both flank elevations. Some of those facing the appeal site appear to be to habitable rooms. These currently face the side of the existing house some 12 metres away or look out over the

rear garden of the appeal property. The appeal proposal would bring the flank wall of the new building to about 7 metres of these windows, with the mass of its sloping roof above the eaves and, furthermore, the block would extend much further into the rear garden than the existing house. In my judgement the outlook from those properties would be substantially affected by the appeal proposal, a situation exacerbated by the difference in ground level between the two sites.

13. I was able to view the appeal site from within no. 12 Dollis Avenue and from its rear garden. This, along with that of the neighbouring property, is particularly short compared with the norm for the area. From that garden the extent to which the existing form of Georgian Court projects into the open areas at the back of properties along the east side of Dollis Avenue was particularly striking, even when seen across the whole width of the appeal site. The appeal proposal would project even further into this and the aspect that neighbouring properties enjoy would be seriously harmed. The fact that the appellant has inset the rear wing some 10.5 metres from the boundary to avoid direct overlooking (and to meet the requirements of UDP Policy H17) does not mitigate my concern that this would appear as an intrusive building in this setting. The occupiers of adjoining properties would, in my judgement, with their own short gardens be entitled to feel unduly hemmed in by the appeal proposal.
14. The neighbours at no. 12 also refer in submissions to the impact of the proposal on the enjoyment of their first floor balcony area. This is above the garage and wraps around the front corner of the dwelling nearest the appeal site. The current aspect across the appeal site of the side gable of no. 14 beyond a single storey extension would be replaced by the 2 storey side wall of the new block surmounted by the flank sloping roof rising to approximately nine metres above ground level.
15. It appears to me that the enjoyment of the adjoining property by its occupiers would be harmed by a combination of factors which cumulatively are sufficient to justify dismissal of the appeal by reason of the unacceptable impact on their outlook. I conclude that the proposal would not accord, in this regard, with UDP Policy D5 which is intended to protect adjoining occupiers from unreasonable loss of amenity.
16. Finally I have considered all of the other very extensive submissions before me by the appellants, Council and other interested parties. I recognise that significant efforts have been made by the appellant to overcome previously identified obstacles to development, but I find that these do not, overall, outweigh the conclusions that I have reached that the proposal would be unacceptable.

*Martyn Single*

INSPECTOR