

**APPEAL DECISION**

**LARKFLEET LTD**

**APPLICATION REF S10/0142/EIAOL**

**LAND TO THE NORTH OF GRANTHAM (BOUNDED BY THE EAST  
COAST RAILWAY LINE, BELTON LANE AND THE A607 HIGH ROAD  
MANTHORPE) LINCOLNSHIRE**

This appeal was dismissed on 1 March 2012 by the Secretary of State for Communities and Local Government. The Secretary of State's decision letter is attached together with the overall conclusion of the Inspector who considered the Appeal. The Inspectors decision letter is more than 50 pages long and has not been copied. It can be viewed on the Council's website and hard copies will be produced on request. Hard copies are also available in the Members Lounge.

Mr Timothy Willis  
Senior Associate  
Shoosmiths  
7<sup>th</sup> Floor  
125 Colmore Row  
Birmingham  
B3 3SH

Our Ref: APP/E2530/A/11/2150609

1 March 2012

Dear Mr Willis

**TOWN AND COUNTRY PLANNING ACT 1990 (SECTION 78)  
APPEAL BY R & S PASK, NAMULAS PENSION TRUSTEES LIMITED, THE  
TRUSTEES OF A J SNAREY 1987 SETTLEMENT, HPC HOMES LIMITED AND  
LARKFLEET LIMITED. APPLICATION REF: S10/0142/EIAOL  
LAND TO THE NORTH OF GRANTHAM (BOUNDED BY THE EAST COAST MAIN  
RAILWAY LINE, BELTON LANE AND THE A607 HIGH ROAD MANTHORPE),  
LINCOLNSHIRE**

1. I am directed by the Secretary of State to say that consideration has been given to the report of the Inspector, Terry G Phillimore, MA MCD MRTPI, who held a public local inquiry which opened on 2 November 2011, into your client's appeal under Section 78 of the Town and Country Planning Act 1990 against the decision of South Kesteven District Council to refuse outline planning permission for a sustainable urban extension to Grantham comprising: at least 1,000 dwelling houses; a continuing care retirement community; a neighbourhood centre (incorporating a primary school, primary healthcare and community assembly facilities (UCO Class D1) and small scale (maximum 750 square metres) convenience shopping (UCO Class A)); public house/lodge hotel; ancillary formal (playing fields/play areas) and informal open space, including structural landscaping and biodiversity enhancement areas; and access works (including alterations to the A607/Belton Lane junction), in accordance with planning application ref: S10/0142/EIAOL, dated 22 January 2010.

2. The appeal was recovered for the Secretary of State's determination on 12 April 2011, in pursuance of section 79 of, and paragraph 3 of Schedule 6 to, the Town and Country Planning Act 1990, because the appeal involves a proposal for residential development over 150 units and over 5 hectares which would significantly impact on the Government's objective to secure a better balance between housing demand and supply and create high quality, sustainable, mixed and inclusive communities.

**Inspector's recommendation and summary of the decision**

3. The Inspector, whose report is enclosed with this letter, recommended that the appeal be dismissed and planning permission refused. For the reasons given in this

letter, the Secretary of State agrees with the Inspector's recommendation. All paragraph references, unless otherwise stated, refer to the Inspector's report (IR).

### **Procedural Matters**

4. The Secretary of State has noted the procedural matters set out in IR1-9 and agrees with the Inspector's assessment of them.

5. In reaching his decision, the Secretary of State has taken into account the Environmental Statement and Addendum as submitted under the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999. Like the Inspector (IR10), he considers that the environmental information as a whole meets the requirements of these regulations and that sufficient information has been provided for him to assess the environmental impact of the application.

6. Following the close of the Inquiry, the Secretary of State received three written representations, from Robert Pask dated 14 November 2011, Shoosmiths dated 10 February 2012 and South Kesteven District Council dated 24 February 2012, which he has carefully considered. However, he does not consider that this correspondence raises any new issues which would affect his decision or require him to refer back to parties prior to reaching his decision. Copies of this correspondence are not attached to this letter but may be obtained on written request to the above address.

### **Policy Considerations**

7. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that proposals be determined in accordance with the development plan unless material considerations indicate otherwise. In this case, the development plan comprises the East Midlands Regional Plan March 2009, the South Kesteven Core Strategy adopted 5 July 2010 (CS) and certain saved policies of the South Kesteven Local Plan April 1995. The Secretary of State considers that the development plan policies most relevant to the appeal are those set out at IR25-44.

8. Material considerations which the Secretary of State has taken into account include those documents listed at IR45-49. Of these, the Secretary of State is aware that following the close of the public local inquiry, the Grantham Area Action Plan (GAAP) was submitted for examination in December 2011 and that the Site Allocation and Policies Development Plan Document was submitted for examination in January 2012. He attaches little weight to the policies in these plans as they have yet to be examined. He also attaches little weight to the consultation version of the Planning Obligations Supplementary Planning Document, as representations received are still subject to review by the Council. Circular 11/95: *Use of Conditions in Planning Permission*, and the Community Infrastructure Levy (CIL) Regulations 2010 and 2011, are also material considerations.

9. The draft National Planning Policy Framework which was published for consultation on 25 July 2011 is a material consideration. However, as this is a consultation document and is subject to change, the Secretary of State has given it little weight.

10. The Secretary of State considers that the revocation of Regional Strategies has come a step closer following the enactment of the Localism Act on 15 November 2011. However, until such time as the East Midlands Regional Plan is formally

revoked by Order, he has attributed limited weight to the proposed revocation in determining this appeal.

11. The Secretary of State has had special regard to the desirability of preserving the nearby listed buildings and their settings, and any features of special architectural or historic interest which they possess, as required by sections 16 and 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990. In view of the possible impact of the proposal on the nearby Manthorpe Conservation Area, the Secretary of State has also paid special attention to the desirability of preserving or enhancing the character or appearance of this area, as required by section 72 of the same Act. He notes that there is agreement that the character of the Manthorpe Conservation Area would be preserved and sees no reason to disagree (IR53).

### **Main Issues**

12. The Secretary of State agrees with the Inspector that the main issues are those set out in IR238.

### **Development Plan**

13. The Secretary of State agrees with the Inspector's reasoning and conclusions on the development plan as set out in IR239-246. He agrees that the principle of the growth of Grantham and its expansion onto greenfield sites accords with the spatial strategy. He also agrees that adverse impact on heritage assets would conflict with important policy objectives, and a site is required to perform well in terms of sustainability in order to comply with the strategy. He further agrees that the development would give rise to a material risk to the early delivery of the sustainable urban extensions and associated important road proposals identified in the CS (IR246).

### **Housing land supply**

14. The Secretary of State agrees with the Inspector's reasoning and conclusions on housing land supply as set out in IR247-251. He notes that there is a housing land supply shortfall. He agrees that, in principle, the development of an un-allocated site is in line with the CS, subject to meeting requirements on appropriateness and location, but the expectation is that this would follow consideration of site phasing and allocations in the GAAP (IR251).

### **Prematurity**

15. For the reasons given in IR252-256, the Secretary of State agrees that there are matters relating to the scale, location and phasing of housing development at Grantham that remain to be determined through the Grantham Area Action Plan. This is at an advanced stage, and allowing the proposal would predetermine the addition of a currently unallocated large greenfield development for immediate release. This prejudice to the GAAP warrants a genuine concern about prematurity (IR307), even allowing for any potential delay as a result of the future actions identified by the GAAP Inspector in his Note of Exploratory Meeting on 15 February 2012 (as referred to in the letters of Shoosmiths and South Kesteven District Council in paragraph 6 above).

### Heritage assets

16. For the reasons given in IR257-267, the Secretary of State agrees with the Inspector that the harm to the significance of the heritage assets of Belton Park and Garden by reason of impact on their settings would be an important consequence of the proposal, but that the degree of harm would be less than substantial (IR264).

### Highways

17. The Secretary of State agrees with the Inspector's reasoning and conclusions on highways as set out in IR268-275. He agrees that the proposal would give rise to additional traffic which would have a negative impact on the operation of the highways network, but that based on reasonable assumptions, it is likely that the magnitude of this would amount to a moderate adverse effect, with no significant increased risks to safety (IR275). He notes, however, that the available modelling evidence does not represent worst case assumptions, and there is a degree of risk in relying on these findings (IR301).

### Sustainability

18. For the reasons given in IR276-282, the Secretary of State agrees with the Inspector that there are some significant reservations about the degree to which the proposal would be a sustainable development (IR282). Like the Inspector, he considers that some aspects of the development would comply with sustainability objectives, such as internal design features, footway/cycleway and travel plan measures, but in other respects, such as the location relative to the town centre, it would be less successful (IR302).

### Conditions and obligations

19. The Secretary of State agrees with the Inspector's reasoning and conclusions on conditions and obligations as set out in IR222-236 and IR283-298. He is satisfied that the proposed conditions are reasonable and necessary and comply with Circular 11/95. He also agrees with the Inspector (IR297) that the S106 agreement obligations accord with Circular 05/05 and the CIL Regulations. He does not consider that the proposed conditions and obligations overcome his reasons for dismissing the appeal.

### **Overall Conclusion**

20. The Secretary of State agrees with the Inspector's overall conclusions at IR299-308. He considers that the proposal is consistent with the strategic policy of substantial new development at Grantham, and that it would provide up to 200 dwellings towards the shortfall in the 5 year land supply, including affordable and specialist housing. However, there are a number of factors weighing against the proposal. These include; the heritage and highways harm; conflicts with the development plan, including the risk to the delivery of the CS sustainable urban extensions and associated road schemes; some concerns about sustainability; and, prejudice to the emerging GAAP, which should determine the scale, location and phasing of housing development at Grantham.

21. Having weighed up all of the relevant material considerations, the Secretary of State considers that the proposal conflicts with the development plan and national

planning policies in a number of respects and though there are material considerations weighing in its favour, these are not sufficient to outweigh this conflict.

### **Formal Decision**

22. Accordingly, for the reasons given above, the Secretary of State hereby dismisses your client's appeal and refuses outline planning permission for a sustainable urban extension to Grantham comprising: up to 1,000 dwelling houses; a continuing care retirement community (UCO Class C2); a neighbourhood centre (incorporating a primary school (UCO Class D1), primary healthcare and community assembly facilities (UCO Class D1) and small scale (maximum 750m<sup>2</sup>) convenience shopping (UCO Classes A1, A3 and A5)); public house (UCO Class A4)/lodge hotel (UCO Class C1); ancillary formal playing field/play areas and informal open space, including structural landscaping and biodiversity enhancement areas; and access works (including alterations to the A607/Belton Lane junction) in accordance with planning application ref: S10/0142/EIAOL (as amended), dated 22 January 2010.

### **Right to challenge the decision**

23. A separate note is attached setting out the circumstances in which the validity of the Secretary of State's decision may be challenged by making an application to the High Court within six weeks from the date of this letter.

24. A copy of this letter has been sent to South Kesteven District Council. A notification letter has been sent to other parties who asked to be informed of the decision.

Yours sincerely

Pamela Roberts  
Authorised by the Secretary of State to sign in that behalf

## **Overall Conclusion**

299. The proposal is consistent with the principle established in strategic policy of substantial new development at Grantham, including its outward growth on greenfield sites. The size of its residential content in conjunction with other allocated development would not be such as to fundamentally undermine or distort the spatial strategy.
300. The proposed development would, however, give rise to harm to the settings of highly graded designated heritage assets at Belton. Although this harm would be less than substantial, it would nevertheless be a serious adverse consequence and conflict with objectives of the development plan. There is a requirement in national policy to weigh the benefit of the proposal against the harm, and recognise that the greater the harm to the significance of heritage assets the greater the justification that will be needed. In the circumstances of the current identified harm, this means that a strong degree of justification is required.
301. The proposal would generate increased traffic which would have a negative impact on the operation of the highway network in the area. On a fair and reasonable basis of assessment, and within the context of the scale of development, this could be expected to amount to a moderate adverse effect,

with no major safety implications. However, the available modelling evidence does not represent worst case assumptions, and there is a degree of risk in relying on these findings.

302. Some aspects of the development would comply with sustainability objectives. These include internal design features, the incorporation of elements of mixed use, and securing of bus service, footway/cycleway and travel plan measures. In other respects it would be less successful, having regard to the location relative to the town centre and other uses and the degree of engagement with the surroundings.
303. There is an expectation in the development plan that details of urban extension sites will be brought forward through the GAAP. The site is not included in the emerging version. The proposal also gives rise to an unquantifiable but nevertheless tangible concern about risk to the timely delivery of the identified SUEs and hence important associated road proposals. In these respects, together with the harm to heritage assets and reservations about sustainability, the proposal is therefore not fully in keeping with the spatial vision for the area as expressed in policy SP1 of the CS.
304. The absence of a 5 year housing land supply in the District indicates in favour of the proposal. Although the shortfall is not extreme, Government policy and the expectations for Grantham give emphasis to delivery of economic growth. The addition to the 5 year supply would at most be 0.3 years, but a significant number of units together with affordable housing and specialist housing for the elderly would be provided by the scheme.
305. In some respects the development would perform well on the factors identified in national housing policy. The shortcomings with respect to heritage and highways impact and sustainability are not so extreme as to establish that the site is unsuitable for housing, but give rise to conflicts with the spatial vision for the area as set out above.
306. The emerging GAAP takes forward a mechanism in the CS for dealing with a shortfall in housing land supply. There are important concerns raised about the scope to bring additional land forward through the initial steps of reviewing site allocations. The final step allows consideration of granting permission for additional sites. The matter is not clear cut, but it is considered that it would unreasonably stretch the implied flexibility in the CS to find that the proposal is in accordance with the development plan in this respect. This is because the process assumes the existence of further DPDs which currently do not exist in adopted form.
307. Furthermore, there are matters relating to the scale, location and phasing of housing development at Grantham that remain to be determined through the GAAP. This is at an advanced stage, and allowing the proposal would predetermine the addition of a currently unallocated large greenfield development for immediate release. This prejudice to the DPD warrants a genuine concern about prematurity.
308. In the overall balance, the proposal would provide the benefit of up to 200 units added to the 5 year housing land supply, together with a gain to the longer term supply and specific provision of affordable and specialist elderly housing, and is in accordance with elements of the spatial vision. Set against this are the

heritage and highways harm and the conflicts that arise with the development plan, including the risk to delivery of the CS road schemes and reservations about sustainability, together with prejudice to the emerging DPD. In conclusion it is considered that the factors in favour are insufficient to outweigh those against granting permission.

**RECOMMENDATION**

309. That the appeal be dismissed.

*T G Phillimore*

INSPECTOR



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## Appeal Decisions

Site visit made on 7 February 2012

by **J.P. Watson BSc MICE FCIHT MCMI**

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

Decision date: 22 February 2012

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### **Appeal A - Ref: APP/E2530/D/11/2165091**

#### **4a Belton Lane, Grantham, Lincolnshire NG31 9HL**

- 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 Mr J Cowling against the decision of South Kesteven District Council.
  - The application Ref S11/2014/HSH, dated 19 August 2011, was refused by notice dated 17 October 2011.
  - The development proposed is extensions and remodelling to existing detached property.
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### **Appeal B - Ref: APP/E2530/D/11/2168079**

#### **4a Belton Lane, Grantham, Lincolnshire NG31 9HL**

- 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 Mr J Cowling against the decision of South Kesteven District Council.
  - The application Ref S11/2612/HSH, dated 21 October 2011, was refused by notice dated 15 December 2011.
  - The development proposed is two-storey and single-storey extensions to existing dwelling.
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### **Decision**

1. Appeal A is dismissed.
2. Appeal B is allowed and planning permission is granted for two-storey and single-storey extensions to existing dwelling at 4a Belton Lane, Grantham, Lincolnshire NG31 9HL in accordance with the terms of the application, Ref S11/2612/HSH, dated 21 October 2011, subject to the conditions set out in the final paragraph of this Appeal Decision.

### **Main Issues**

3. The main issues are:
4. Appeal A:
  - a) The effect on the street scene;
  - b) The effect on living conditions at 6 Belton Lane; and,
  - c) Whether harm would be caused at the nearby bus stop.
5. Appeal B:
  - a) The effect on the street scene; and,
  - b) The effect on living conditions at 4 Belton Lane.

## **Reasons**

### *Street Scene*

6. The appeal property, with its neighbours, is separated from the carriageway by a verge and a footway. The houses on the same side of Belton Lane as the appeal site are detached and of broadly comparable size to one another and to the appeal house. They are set back an approximately uniform distance from the footway and are skewed in plan relative to the road so as to face more toward the west than they otherwise would. A line of trees, parallel to the road, stands on the verge and there is a hedge along the frontages. The houses are set back behind these planted features, which contribute positively to the street scene, and there are trees on the appeal site near its south-western corner that are also beneficial.

### *Effect On The Street Scene: Common To Both Appeals*

7. The two designs have two things in common that I consider in this paragraph. Both would lose the symmetry that currently exists between the appeal house and that at 4 Belton Lane. That loss would not cause any appreciable harm to the street scene. I next consider the two-storey elements of both proposals, which I consider for a moment without the effect of the garage proposals and the single storey links to the garages. Although there are some differences between them, the two-storey elements would not project greatly beyond the informal building line set by the neighbouring properties. The houses in the group are not of a uniform style and the new two-storey design elements could be visually accommodated. The two-storey elements would not cause any appreciable harm to the street scene.

### *Effect On The Street Scene: Single-Storey Elements: Appeal A*

8. The Appeal A proposal would place the garage within about a metre of the site's front boundary at its nearest point, near the boundary with number 6. The garage, taller to its ridge than the eaves height of the house, would become an obvious part of the street scene, and would appear out of place in the context of the building line and the open spaces in front of the other houses in the group. The trees near the corner of the appeal site would be lost and I am not satisfied that satisfactory screening could be achieved in the residual triangle of land in front of the new garage. The appeal A proposal would be harmful to the street scene, by virtue of the effect of its garage.

### *Effect On The Street Scene: Single-Storey Elements: Appeal B*

9. The garage would be set about 4 metres from the site's front boundary at its nearest point, near the boundary with number 4, and the trees on the site frontage would be retained. They and the hedge together would provide a useful amount of screening. The building would not be obtrusive in the street scene.

### *Effects On Neighbours: Appeal A*

10. The first-floor side windows in the appeal house would give rise to no harmful overlooking into neighbouring properties. Ground-floor side windows face the neighbours but measures to prevent intervisibility and maintain privacy could be secured by condition. The two-storey element would be alongside the house at 4 Belton Lane and would cause no undue overbearing effect there,

and it would be sufficiently far from the house at 6 Belton Lane to avoid any such effect there. The single-storey element would have no effect on 4 Belton Lane, by virtue of its location. The eaves of the new single-storey section would be a little higher than those of the existing flat-roofed garage on the appeal site, and the pitched roof of the garage would slope up away from the boundary. Taken together with the current effect of the boundary fence there would be no unacceptable overbearing effect on 6 Belton Lane. The Council expects a resultant loss of planting on the boundary with number 6 but the planting I saw there was a single tree in the garden of number 6 near the garage at the appeal site. There would be little loss of planting on the common boundary with number 6.

*Effects on Neighbours: Appeal B*

11. The first-floor side windows in the appeal house would give rise to no harmful overlooking into neighbouring properties. Ground-floor side windows face the neighbours but measures to prevent intervisibility and maintain privacy could be secured by condition. The two-storey element would be alongside the house at 4 Belton Lane and would cause no undue overbearing effect there, and it would be sufficiently far from the house at 6 Belton Lane to avoid any such effect there. The single-storey element would have no effect on 6 Belton Lane, by virtue of its position. Its eaves would be higher than the boundary fence with 4 Belton Lane which already forms a strong visual barrier on the boundary. The garage would be set back from the boundary by more than a metre and its pitched roof would slope up away from the boundary. Although it would be visible from 4 Belton Lane, the form of the building would be visually acceptable and its materials could be regulated by a condition. As to overbearing at 4 Belton Lane arising from the single-storey element, any such effect would arise only from those parts of the new work that would extend above the boundary fence and, by virtue of the location and configuration of the proposed building, the effect would be slight and acceptable. The Council expects a resultant loss of planting on the boundary with number 4 but an effect of the boundary fence is to isolate the visual effect of the planting on each side, so that changes to the planting at the appeal site near the boundary would have no effect at number 4.
12. Neighbours at 4 Belton Lane are concerned that the Appeal B scheme would result in disturbance at their property due to vehicular movements next door. Although the new garage would be nearer their property than is the existing garage at the appeal site, vehicles on the appeal site would manoeuvre on the area that is currently the forecourt to the existing garage there. The Appeal B scheme would cause no increase at 4 Belton Lane in noise from vehicles at the appeal site.

*Whether Harm Would Be Caused At The Nearby Bus Stop: Appeal A*

13. The relocated access would direct vehicles entering or leaving the site to a footway crossing that would be next to the bus stop in front of the site. The evidence is that the stop is little-used but nevertheless it is there and I am not persuaded that the proposed arrangement would be safe.

*Other Matters*

14. I have considered all other matters raised but find nothing that alters my decision.

### *Conclusions*

15. The Appeal A scheme would be harmful to the street scene, by virtue of its garage. It would neither conserve, enhance nor restore the quality and character of the built fabric or the setting, and would be contrary to Policy EN1 of the South Kesteven Adopted Core Strategy July 2010. It would have no unacceptable effect on the neighbouring properties. It would be likely to reduce safety at the nearby bus stop, contrary to Planning Policy Guidance 13 *Transport*. Appeal A should therefore be dismissed.
16. The Appeal B scheme would not be harmful to the street scene. It would conserve the quality and character of the built fabric and the setting, and would be compliant with Policy EN1 of the South Kesteven Adopted Core Strategy July 2010. It would have no unacceptable effect on the neighbouring properties. Appeal B should therefore be allowed, subject to conditions.

### **Appeal B: Conditions**

17. The Council has suggested conditions, should planning permission be granted. A time condition is needed to comply with the Town and Country Planning Act 1990. A general preclusion of permitted development is suggested, but I am not satisfied that conditions at the site and nearby are so demanding as to overcome the presumption against such conditions that DoE Circular 11/95 establishes. But "permitted development" would allow the insertion of extra windows in the sides of the building, which could cause intrusive overlooking of neighbouring properties, and that would not be acceptable. External materials to be used should be subject to approval to ensure a satisfactory appearance. Trees and hedges on the site frontage should be retained, to safeguard the street scene.
18. Additionally, conditions are needed to identify the approved drawings (to define the permission) and to prevent intervisibility between ground-floor side-facing windows and neighbouring properties. The planning permission that I grant is therefore subject to the following conditions:
  - 1) The development hereby permitted shall begin not later than three years from the date of this decision.
  - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: PLA1/01A, PLA1/02B, PLA2/03B, PLA2/05.
  - 3) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking, re-enacting or modifying that Order), no windows/dormer windows other than those expressly authorised by this permission shall be constructed on the side elevations.
  - 4) No development shall take place until samples of the materials to be used in the construction of the external surfaces of the building hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
  - 5) No development shall take place until the following details have been approved in writing by the local planning authority. Development shall then be undertaken only in accordance with the approved details, that is:

- a) A plan showing the location of, and allocating a reference number to, the three trees on the front of the site shown on drawing PLA203B ("the retained trees");
  - b) Details of any proposed topping or lopping of any retained tree;
  - c) Details of any proposed alterations in existing ground levels, and of the position of any proposed excavation within the crown spread of any retained tree;
  - d) Details of the specification and position of fencing and of any other measures to be taken for the protection of any retained tree from damage before or during the course of development; and,
  - e) Details of measures to be taken to protect the hedge at the site's frontage onto Belton Lane.
- 6) Notwithstanding the submitted details of side-facing ground floor windows, no development shall take place until the local planning authority has approved a scheme to prevent intervisibility between the ground-floor side-facing windows and the neighbouring properties. Development shall take place as approved and the scheme shall be retained thereafter.

*J.P. Watson*

INSPECTOR