

Planning Appeal Statement

Written Statement of Dale Jones MRTPI, on behalf of a planning appeal by Mr Chadha against the Local Planning Authority's (London Borough of Hillingdon) decision to refuse planning permission for the following development proposal:

Proposal: Conversion of detached garage to annex (part retrospective)

Planning Reference Number: 5944/APP/2019/3259

Appeal Site Address: 332 High Street, Harlington, Hayes, UB3 5LE



1.0 SITE DESCRIPTION

- 1.1 The appeal site comprises a two-storey end of terrace house located on the western side of High Street, Harlington, which lies within the Developed Area as identified within the Hillingdon Local Plan - Saved UDP Policies (November 2012). The front garden is laid in hardstanding, with the capacity to accommodate two off-street parking spaces. To the rear of the site, access is available via a gated entry point.
- 1.2 The property is not located within any designated conservation area and the immediate setting of the site is comprised predominantly of two storey semi-detached residential properties from the inter-war and post-war periods that are laid out in a formal arrangement within the spacious suburban setting.

- 1.3 Some of the other residential properties in the surrounding area have the benefit of single storey side and rear extensions, rear dormers and a variety of single storey outbuildings (including those in proximity of the appeal site). Many of these outbuildings, extensions and developments can be viewed from public vantage points and are usually highly visible punctuated above the garden boundary treatments and from viewpoints between the semi-detached layouts of the wider estate.
- 1.4 In terms of the wider setting, the site is located close to Heathrow Airport, and the A4 (Bath Road) is within 350m south of the site. A number of bus routes operate on the High Street with the following services: 40, 90, 278, H98, N140 as well as the n140 and x140 with limited stops, with these services offering sustainable public transport services in the area.
- 1.5 The property has been extended by a single storey rear extension which projects across the rear of the main dwelling house, retaining a side area providing access to and from the front of the site. The existing outbuilding is sub-divided by a partition wall internally and is currently used as storage (the rear part) and as a study/garden room within the front section.

2.0 RELEVANT PLANNING HISTORY

- 2.1 The property has the following relevant planning history:

6028/APP/2006/2257 – Planning permission was approved for the erection of a single storey rear extension (dated 27.09.2006)

3.0 PLANNING POLICY AND GUIDANCE

- 3.1 The starting point for decision making is the development plan, i.e. the Council's Local Plan. The Development Plan for the Borough comprises The Hillingdon Local Plan: Part 1- Strategic Policies (November 2012), Part 2 comprising the Saved Unitary Development Plan policies adopted as the Hillingdon Local Plan (November 2012) and the London Plan (consolidated with alterations since 2011 was published by the Mayor in March 2015 and later amended in 2016).
- 3.2 S38(6) of the Planning and Compulsory Purchase Act 2004 requires that decisions should be made in accordance with the development plan unless material considerations indicate otherwise.
- 3.3 The National Planning Policy Framework 2019 and the Planning Practice Guidance are also both important material considerations in planning decisions. Neither changes the statutory status of the development plan as the starting point for decision making but policies of the development plan need to be considered and applied in terms of their degree of consistency with the NPPF, PPG and other material considerations.
- 3.4 Determination of the appeal needs to consider whether the proposals constitute sustainable development having regard to Development Plan policy and the NPPF as a whole.
- 3.5 The Mayor's London Plan 2016 (MALP) The London Development Plan is the overall strategic plan for London, and it sets out a fully integrated economic, environmental, transport and social framework for the development of the capital to 2031. It forms part of the development plan for Greater London and is recognised in the NPPF as part of the development plan.

- 3.6 The London Plan provides a unified framework for strategies that are designed to ensure that all Londoners benefit from sustainable improvements to their quality of life.
- 3.7 The Residential Extensions Supplementary Planning Document, December 2008 is also applicable.
- 3.8 Saved policies (Part 2 of the Local Plan) are relevant to the current planning application include the following:

BE13: Layout and appearance of new development;
BE15: Alterations and extensions to existing buildings;
BE19: New development within residential areas – complementing and improving amenity and character of the area;
BE20: Daylight and sunlight considerations;
BE21: Siting, bulk and proximity of new buildings/extensions;
BE23: External amenity space and new residential development.
BE24: Requires new development to ensure adequate levels of privacy to neighbours

Policy DMHD 1 ('Alterations and Extensions to Residential Dwelling') of the Alterations and Extensions to Residential Dwellings of the London Borough of Hillingdon Local Plan Part 2 Development Management Policies with Modifications (March 2019).

Policy DMHD 2 ('Outbuildings') of the Alterations and Extensions to Residential Dwellings of the London Borough of Hillingdon Local Plan Part 2 Development Management Policies with Modifications (March 2019).

4.0 THE APPEAL CASE

- 4.1 Planning permission (Ref. 51288/APP/2019/1037) was submitted on 7 October 2019 for the proposed conversion of the detached garage to an annex (part retrospective). The application was validated by the Council on 18 November 2019.
- 4.2 The application was refused by the Council under delegated powers on 13 January 2020 for the following reason:

The proposed outbuilding by virtue of its size, scale, layout and the potential of an independent access, would be tantamount to the creation of a self-contained separate dwelling, where such a dwelling would not be acceptable due to its impact on the character and appearance of the host dwelling and the wider locality, the need for additional parking and amenity space and issues relating to impact on the existing and adjoining dwellings. Therefore the proposal would be contrary to Policies AM14, BE13, BE15, BE19, BE20, BE21, BE23 and BE24 of the Hillingdon Local Plan: Part Two - Saved UDP Policies (November 2012), Policy DMHD 2 of the emerging Hillingdon Local Plan: Part Two - Development Management Policies with Modifications (March 2019) and the adopted Supplementary Planning Document HDAS: Residential Extensions.

5.0 APPEAL CONSIDERATIONS

- 5.1 The main planning issue in the determination of the planning appeal is the impact of the proposed development in visual amenity terms with regard to the character of the dwelling house, neighbouring properties and the wider street scene, together with its use as an annexe, ancillary to the main dwelling house, and the potential need for additional parking and amenity space and issues relating to impact on the existing and adjoining dwellings.

Scale and detailed design

- 5.2 Policy BE1 of the Hillingdon Local Plan: Part One - Strategic Policies (November 2012) requires all new development to maintain the quality of the built environment including providing high quality urban design. Furthermore, policies BE13 and BE15 of the Hillingdon Local Plan: Part Two - Saved UDP Policies (November 2012) resist any development which would fail to harmonise with the existing street scene or would fail to safeguard the design of existing and adjoining sites.
- 5.3 The existing outbuilding that is the subject of this appeal is positioned at the end of the rear garden and has a footprint of 36.9 square metres and height of approx. 3.0m. The outbuilding is primarily of brick construction with a felt roof. The outbuilding is of a broadly similar scale and appearance to that of the existing outbuilding that is located immediately next door within the rear garden of the neighbouring No. 334 High Street (refer to Appendix, Image 2 below). As referenced above, the outbuilding is internally separated by a partition wall into two areas, with the smaller rear (western) area used as domestic storage with the front area (facing the main building) used as ancillary residential accommodation with the main dwelling house.
- 5.4 In terms of its bulk, scale and design, the Council note within section 5, paragraph 2 of the published officer report that: *“Given the large size of the garden, and the fact that this development has existed for many years, it is not considered that the development would appear an unsightly outbuilding and is not considered to compete with the existing dwelling, appearing as a subordinate structure contained within the rear garden.”* In this respect, the Council have effectively confirmed that the proposal is of an acceptable size, scale and appearance in its context. As such, the use of the existing outbuilding will now be explored within the remainder of the appeal statement below.

Use of the existing outbuilding and amenity

- 5.5 The main issue is whether appeal proposal would be tantamount to a separate residential dwelling with consequent effects on living conditions for neighbours and future residents. Section 9 of the Council's 'Residential Extensions Guidance SPD', is relevant on this issue and states:

‘Outbuildings cannot be used as a separate business unit or as a self-contained residential unit, as these could lead to a number of privacy, overlooking, noise and disturbance problems. If it is intended Page 4 of 6 to use the outbuilding for any of these uses, the proposal will be refused planning permission.’

- 5.6 Policy DMHD 2 of the Alterations and Extensions to Residential Dwellings of the London Borough Of Hillingdon Local Plan Part 2 Development Management Policies with Modifications (March 2019) pertains to outbuildings and states:

‘The Council will require residential outbuildings to meet the following criteria:

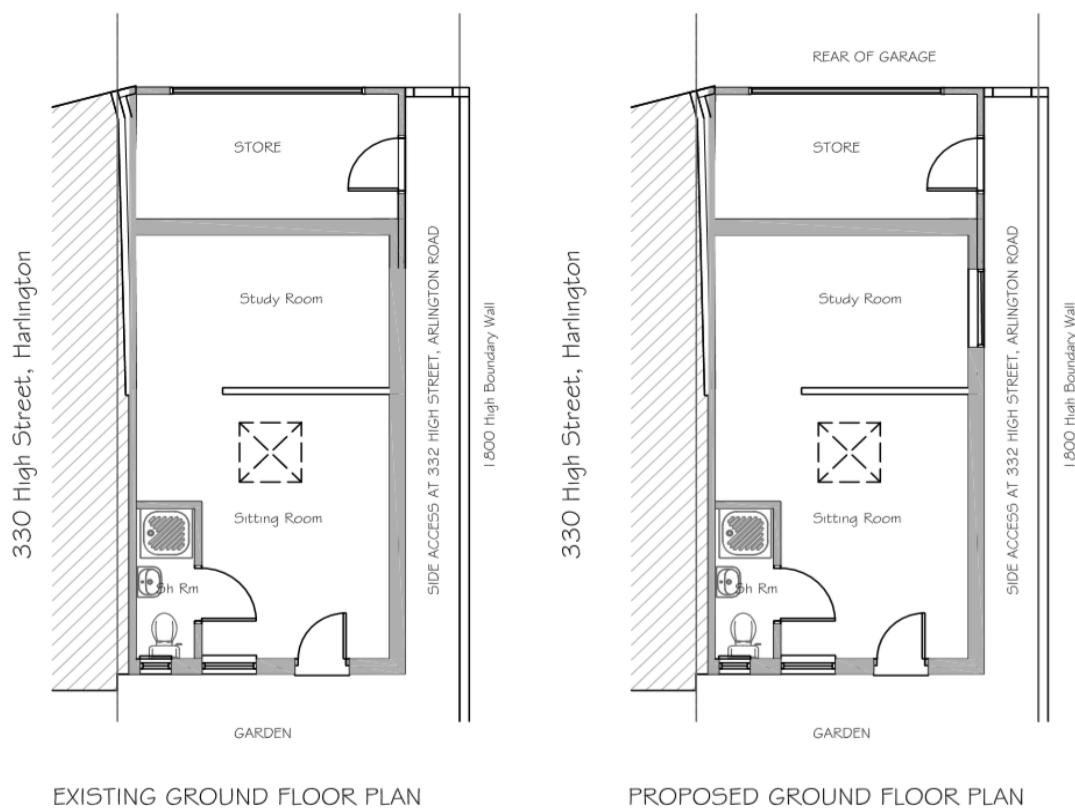
i) the building must be constructed to a high standard of design without compromising the amenity of neighbouring occupiers; ii) the developed footprint of the proposed building must be proportionate to the footprint of the dwelling house and to the residential curtilage in which it stands and have regard to existing trees; iii) the use shall be for a purpose incidental to the enjoyment of the dwelling house and not capable for use as independent residential accommodation; and iv) primary living accommodation such as a bedroom, bathroom, or kitchen will not be permitted.’

- 5.7 The existing outbuilding is used as ancillary accommodation as a summer room/play room for the family living in the main residential dwelling at No.332 (with the exception of the rear area of the outbuilding which is used for domestic storage), which is again ancillary to the main dwelling.
- 5.8 The appellants intend to use the existing single storey outbuilding as a residential annexe (ancillary to the main dwelling house) which whilst physically separate from the main house, would be used by members of the same family unit within the host dwelling at No.332 High Street. The rationale is to ensure that the large-family can continue to live together, with three generations of the same family providing support for each other without having to relocate elsewhere from the family home. It is important to note that the existing outbuilding would not be used as any separate self-contained unit of residential accommodation.
- 5.9 With regard to the physical layout (refer to the image on page 6), the existing outbuilding has a small shower room with sink and the main area (internally) is part-divided into two moderately sized living areas. It should also be noted that there is no separate address, utility meters or kitchen area for the single storey annexe. In terms of the 'day-to-day usage', food would be prepared and consumed together as a family within the main dwelling at No. 332 High Street, with the outbuilding used for general living/rest space and sleeping accommodation for the family.
- 5.10 The Council argue (para 7, Section 5) of the report that the applicant confirmed that the outbuilding is not for use as a separate dwelling house, but as ancillary accommodation for family members. However, the Council note that 'given its internal facilities to include: a bedroom, bathroom and living room with potential access from the rear in the future the proposed outbuilding as an annexe is one which is considered to be capable of independent occupation from the main dwelling and is thus tantamount to a separate dwelling in a position where such a dwelling would not be accepted.'

Access to the outbuilding

- 5.11 On the matter of access, the Council also acknowledge that the applicants have confirmed that a door to the rear previously existed but has been bricked off due to a burglary. However, the Council note that there is no planning condition that can be established to ensure this door is not erected for private access to the annex. The Council assert that its use for residential purposes would lead to impacts on adjacent neighbouring properties, including that of the host dwelling, by way of loss of privacy and in particular relating to the use of the garden.
- 5.12 For the purpose of clarity, the openings to the rear comprise timber doors that are non-openable with the rear elevation having been 'bricked-off' as confirmed by the Council (refer to Image 6 below). The area to the rear (west) of the site at the rear of the existing outbuilding is a private access road, which is shared with other residential properties in the surrounding streets. However, as can be confirmed on-site, not only are the doors to the outbuilding bricked up, and therefore clearly not in operational use, the private access road is also secured by a gated entrance which only existing residential properties have access to (via a skeleton key). This access road to the rear of the site helps prevent the rear access road from being used for anti-social behaviours.
- 5.13 The fact that the access is restricted by the gated entrance (to the side of no.2 Warner Close – see Image 8 below) and the fact that the outbuilding has no physical access point from the rear, ensures that use/access to and from the existing outbuilding is

obtained solely through the main dwelling house at No. 332 High Street. It is considered that such physical measures would restrict and prevent the use of the outbuilding as a separate unit of residential accommodation.



Planning conditions

- 5.14 Paragraph 55 of the National Planning Policy Framework (NPPF) makes clear that planning conditions should be kept to a minimum, and only used where they satisfy the “six tests”.
- 5.15 The Council assert that ‘That there is no planning condition that can be established to ensure this door is not erected for private access to the annex.’. However, it is contended that this is not the case. In a separate appeal case (within LB Hillingdon) at No.20 Redmead Road (Planning Inspectorate Ref. 3005825) an appeal was allowed and planning permission granted for a single-storey detached outbuilding to rear for use as a granny annexe ancillary to the main dwelling at 20 Redmead Road, Hayes, Middlesex, UB3 4A. It is noted that in that particular appeal case, the appointed Inspector applied the following two planning conditions in order to prevent the use of the outbuilding as a separate unit of self-contained accommodation:

1. The outbuilding hereby permitted shall not be occupied at any time other than for domestic or other purposes ancillary to the residential use of the dwelling known as 20 Redmead Road, Hayes.
2. The existing solid wall of approximately 2 metres in along the north east rear boundary of the curtilage of 20 Redmead Road, Hayes height shall be permanently retained and no gateways or other means of pedestrian or vehicular passage shall reinstated or created which would enable access from outside the curtilage into the open area behind the outbuilding hereby permitted.

- 5.16 It should be noted that the appeal allowed at No.20 Redmead Road is materially similar to that of the current appeal case. In this respect, both cases of which were physically separated from the main family house, both of which were located at the end of the rear garden and both of which had a form of separate access to the rear of the outbuildings. The appeal decision in connection with No.20 Redmead Road is attached in Appendix B below.
- 5.17 For the record, the appellants in this current appeal case will also accept the use of similarly worded planning conditions as further safeguarding measures to prevent the existing outbuilding from being use as a separate self-contained unit of accommodation. Again, the proposal is for 'ancillary use' relating to the main dwelling as a single-family unit. Given the above, it is considered that both the individual merits of the appeal case and the use of planning conditions can offer suitable control in connection with the use of the existing outbuilding.

6.0 OTHER MATERIAL PLANNING CONSIDERATIONS

- 6.1 The National Planning Policy Framework (2019) is at the forefront of driving sustainable development in the country, and states that the purpose of the planning system is to contribute to the achievement of sustainable development (para 8). In addition, there should be a presumption in favour of sustainable development (para 11). The NPPF puts great weight on considering local needs and approving sustainable proposals without delay. The NPPF defines three dimensions to sustainable development:

Economic, Social and Environmental

- 6.2 It is considered that the proposal would provide an important unit of ancillary accommodation for the family of No.332 High Street, ensuring that the land is used efficiently, but without creating any separate self-contained unit of accommodation.
- 6.3 Whilst it is considered that the appeal scheme is acceptable on its own planning merits as set out within the above rationale, the Inspectors attention is hereby requested in respect of the following applications which are found in the vicinity of the appeal site and which are similar to that of the development hereby proposed. Significantly, the following examples of development have been approved by the Council:
- 6.4 No.20 Redmead Road (as referenced above within paragraphs 5.15 - 5.17)
- 6.5 No.6 Churchill Avenue, Hillingdon (Ref. 71202/APP/2015/3325)

Condition 4 was added go this permission: The outbuilding hereby approved shall only be used for the purpose(s) stated on the application form and approved drawings and shall not be occupied at any time other than for purposes ancillary to the residential use of the dwelling known as 6 Churchill Avenue, Hillingdon and shall not be used as a separate unit of accommodation or for any business purposes.

7.0 SUMMARY AND CONCLUSIONS

- 7.1 The proposed development adheres with national and local planning policies. Furthermore, it is contended that the development is a good example of 'sustainable development' by using the land effectively for economic, social and environmental goals. In this respect, the annexe would be dependent on the main dwelling for essential facilities, and will allow for the extended family to live together as a single-family unit, re-enforcing the ancillary nature.

- 7.2 The use of planning conditions will ensure that the Council have full control over the operational use, which the appellants are fully agreeable to.
- 7.3 Finally, it is also contended that the proposal would not jeopardise the amenities of surrounding residents or compromise the local highways conditions given the ancillary use to the main dwelling. As such, the appointed Inspector is thereby respectfully requested to allow the appeal and grant planning permission, applying conditions if required.
- 7.4 Please refer to the Appendix A (Site Images) and Appendix B (relevant appeal decision) below.

Appendix A – Site Images

Image 1 – The existing outbuilding (eastern elevation)



Image 2 – Indicating the outbuilding together with the neighbouring outbuilding at No.334 High Street



Image 3 – High level view looking west from the main family dwelling



Image 4 – Indicating the large separation distance with the properties to the north that front West End Lane, backing onto the appeal site



Image 5 – View east from the outbuilding towards the main family dwelling across the soft-landscaped rear garden



Image 6 – Illustrating the rear façade of the outbuilding which has been bricked-up internally



Image 7 – Illustrating other garages in the rear access road



Image 8 – The access road is sealed off by a padlocked gated entry point



Appendix B – Appeal Decision (Allowed) at No.20 Redmead Road

Appeal Decision

Site visit made on 14 May 2015

by **D Cramond BSc MRTPI**

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

Decision date: 10/06/2015

Appeal Ref: APP/R5510/D/15/3005825

20 Redmead Road, Hayes, Middlesex, UB3 4AU

- 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 Paramjit Gill against the decision of the Council of the London Borough of Hillingdon.
 - The application Ref 57105/APP/2014/4159, dated 15 November 2014, was refused by notice dated 20 January 2015.
 - The development proposed is a single storey detached outbuilding to rear for use as a granny annexe ancillary to the main dwelling.
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Decision

1. The appeal is allowed and planning permission is granted for a single storey detached outbuilding to rear for use as a granny annexe ancillary to the main dwelling at 20 Redmead Road, Hayes, Middlesex, UB3 4AU in accordance with the terms of the application, Ref 57105/APP/2014/4159, dated 15 November 2014, subject to the following conditions:
 1. The outbuilding hereby permitted shall not be occupied at any time other than for domestic or other purposes ancillary to the residential use of the dwelling known as 20 Redmead Road, Hayes.
 2. The existing solid wall of approximately 2 metres in along the north east rear boundary of the curtilage of 20 Redmead Road, Hayes height shall be permanently retained and no gateways or other means of pedestrian or vehicular passage shall reinstated or created which would enable access from outside the curtilage into the open area behind the outbuilding hereby permitted.

Procedural Matter

2. The development has been completed and the use sought is retrospective; this does not alter my approach to determining the merits of the proposal.

Main Issue

3. The main issue is whether appeal proposal would be tantamount to a separate dwelling with consequent effects on living conditions for neighbours and future residents.

Reasons

4. The appeal property as a terraced two storey dwelling in an area of generally similar homes which form an established residential neighbourhood of pleasing

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character and appearance. The property has a reasonable averaged sized rear garden for the area and is far from unique locally in having an outbuilding of this size and character. The proposal is as described above and is a single storey flat roofed structure of about 40 square metres floor area.

5. Planning history on the site includes an enforcement notice being issued against the rear outbuilding. The breach of planning control as alleged in the notice was, without planning permission, the erection and residential use of a single-storey self contained outbuilding. The notice was appealed under reference APP/R5510/C/13/2209789. The decision was made on 14 October 2014, with the appeal being dismissed and the notice varied. It was deemed that the physical structure could remain together with the internal partitions, however, the use as a residential dwelling was considered unacceptable and hence the kitchen and bathroom were to be removed. These works have not been undertaken and the Appellant wishes to (continue) the use of the building as granny annexe with the clear stated intent that it would not be used a separate dwelling.
6. The Inspector in the enforcement case made the point that in the then absence of a 'ground (a) appeal' and a deemed planning application he/she was not able to consider the planning merits of the case, as they apply to the requirements of the notice, nor was the Inspector able to impose planning conditions.
7. The Council is not raising any issue with regard to the physical structure in aesthetic or amenity terms. Rather it draws attention to the internal and external characteristics of, and access to, the building being such that the structure is tantamount to a separate dwelling which could be used for independent living. The alleged ramifications from this could be impact on neighbours and the failure to meet needs of the would-be occupiers such as amenity space.
8. However, the structure has no separate address, no separate utility meters, all services derived from the main house, pedestrian access only in part through the main dwelling and minimal kitchen facilities all of which would to my mind point to this not being an individual dwelling or a separate planning unit. There is a narrow contorted overgrown pedestrian rear access lane but it is clear this has not been used for a considerable period and the rear boundary, which lies beyond a very small open area behind the appeal building, is presently solidly blocked up with a high level wall. Only if this rear access was to be used might the structure lean more towards the definition of a separate dwelling; it would then be less reliant on the main dwelling.
9. The Appellant's statement both generally, and in the present circumstances set out with regard to his mother, makes it clear that he is open to planning conditions which would re-assure the authorities that this building is to be used as a genuine granny annexe, or for matters such as storage, and not a separate dwelling. Two aspects underlined by the Appellant are pertinent – the nature of the occupation and use as well as access to the building. I would deem that the structure should be tied by a planning condition to ancillary occupation and use and that the solid wall to the rear lane should remain in situ. Both these conditions would to my mind prevent individual residential occupation and protect local amenities and character.

10. In the circumstances of these 'new' conditions I would look afresh at the previous requirement to remove the kitchen and bathroom facilities and deem that this would not now be necessary. I would also conclude that there would be no conflict with Policies AM14, BE19, BE23 and BE24 of the Hillingdon Local Plan: Part Two - Saved UDP Policies (November 2012) or the Supplementary Planning Documents HDAS; *Residential Extensions* and HDAS; *Residential Layouts*. Taken together and amongst other matters these policies and documents seek to ensure suitable parking, safeguard an area's character, provide for adequate amenity and protect living conditions for neighbours.

Conditions

11. The Council suggests the standard commencement condition along with the requirements for materials to match the existing building and works to be carried out in accordance with listed, approved, plans. However, given that the proposal is a retrospective one these conditions would not be appropriate. The Appellant anticipates controlling conditions to ensure ancillary domestic use, I discuss these above, and I shall apply the two conditions in question in the interests of protecting the living conditions for neighbours and the character of the area.

Overall conclusion

12. For the reasons given above I conclude that the appeal proposal would not be tantamount to a separate dwelling and thus not have unacceptable adverse effects on living conditions for neighbours and future residents. Accordingly the appeal is allowed.

D Cramond

INSPECTOR