

Scottish Parliament Region: Mid Scotland and Fife

Case 200400766: Fife Council

Summary

Planning - Objections to Development by Neighbours

The complainants were 11 residents in a Fife village whose rear gardens adjoined a new housing site. The investigation found that Fife Council (the Council) had not had sufficient information upon which to properly assess the effect of the development on the complainants' houses and had not required re-notification of the proposals. The complainants' amenity and property values may have been affected. The Council's ability to take enforcement action was restricted. After the matter was brought to their attention, they took appropriate action. The outgoing Chief Executive of the Council accepted the Ombudsman's recommendation that an independent valuer be instructed with a view to making appropriate payments if the properties in question have lost value.

Introduction

1. On 2 November 2004 a house owner (Mrs C) submitted a complaint to the Ombudsman on behalf of eleven residents (including herself) in a Fife village about the Council's mishandling of a planning permission for a residential development on land immediately to the south and rear of their homes. The adjacent houses were then under construction at a height detrimental to their privacy and curtailed sunlight reaching their gardens. My investigation uncovered faults in the Council's handling of the application which had allowed the development to proceed as it did. The Ombudsman's recommendation that the Council instruct an independent valuer to assess any loss in property value with a view to making them an appropriate payment was accepted by the Council's Chief Executive (paragraph 50).

2. The complaints from Mrs C which I investigated (*and my conclusions*) are:

- (a) the Council approved plans which misrepresented the differential in height between the complainants' and new houses; *upheld, see paragraph 47*;

- (b) the Council, prior to approval, received amended drawings which should have been, but were not, the subject of subsequent neighbour notification, *upheld, see paragraph 46;*
- (c) the Council failed to take enforcement action when the developer constructed the houses with floor levels higher than in the approved plans, *not upheld, see paragraph 48;*
- (d) when the matter was first raised with the Council's Development Services, they did not act with appropriate diligence, *not upheld, see paragraph 49.*

Background

3. Generally, following neighbour notification under the Town and Country Planning (Scotland) Act 1997 and relevant General Development Order, if prior to planning consent being granted, an applicant amends his or her proposals in a manner which will have a more adverse effect on the amenity of those previously notified, planning officers will require re-notification. Where neighbours have previously objected and the amended plans ameliorate the effect of the development on the objectors' properties, planning officers may take the view that the changes that are being introduced are 'non material' and will generally not require the applicant to re notify neighbours.

Investigation and Findings of Fact

4. The complaint which Mrs C submitted was made on behalf of herself and ten other private householders at 11-31 X. The rear property boundaries of their houses built some six years ago adjoin a site of thirty new houses at Y, then currently under construction to the south.

5. Development of the houses at X and Y was the subject of a development brief prepared in 1996. Planning consents for two phases of the X site were granted in February 1998 and March 2000 respectively. While there is evidence that some householders at 11-31 X levelled off their rear gardens, no check was made by the Council as to whether the finished floor levels of the houses were in accordance with the approved plans.

6. A planning application for 30 houses on the site at Y was submitted to the Council on 18 December 2001. Six residents inspected the plans.

7. The Council's file records show that after receiving the application on 20 December 2001, a development control assistant wrote on 31 December 2001 to the developer on 31 December 2001 indicating that the application could not be regarded as valid because of the lack of three specified sets of details, the third being road, site and finished floor levels.

8. The Council confirmed that there was only one objection to the planning application (from solicitors of the party who had sold the land to the developer of the Y site). The Council confirmed that no plans were available showing finished floor levels or spot heights during the period for comment after neighbour notification. There was no note on file that that particular lack of detail had been queried by the residents who viewed the plans. The first plans showing the finished floor levels of houses at Y were received on 16 January 2002.

9. Inspection of one of the original layout plans for the Y site (Plan A) shows the natural existing contours being defined as ranging from 165.5 metres next to the northern mutual boundary of the site with the complainants' properties with the highest contour (the 179 metre contour) some 140 metres to the south. The natural slope rising to the south was, therefore, approximately 10% (or 1 in 10). Only three of the houses in X adjoining the site are shown in Plan A. The contours drawn on that plan do not continue beyond the northern site boundary of Y.

10. A road layout plan (Plan B) and section (Section B) was submitted by the developer's consulting engineers and received by the Council on 16 January 2002. Plan B shows the height of the northern boundary at about 166.5 metres. The finished floor levels of the nine proposed houses adjacent to that northern boundary were to be 168.75m, 169.10m, 169.10m, 168.75m, 168.75m, 168.75m, 168.70m, 168.50m, 168.25m and 168.00m respectively from west to east. According to this drawing, finished ground floor levels in the new houses would range from roughly 1.5 metres at the east to 2.6 metres at the west above ground level at the boundary (or 2.5 metres to 3.6 metres) comparing Plan B with Plan A.

11. On 15 February 2002, the planning case officer (Officer 1) wrote to the developer's representative primarily about landscaping matters at the eastern and southern boundaries of site Y. However, since only one cross-section had been supplied by that date, Officer 1 also requested, in order to ensure that the submitted cross-section was a fair representation of site levels, that the developer submit a site plan detailing finished floor levels of all proposed dwellings with spot heights around the entire perimeter of the site, on proposed roadways and gardens and along the ridge of the landscape strip. Officer 1 also drew attention to the need to complete the road network prior to adoption by linking Y and X with a road constructed to adoptable standards. The developer was also asked to give attention to the relationship of houses to each other, to altering one house type, and to defining the position of boundary enclosures in respect of six plots.

12. The cross-sections requested by Officer 1 were not provided. There is also no record on file that Officer 1 compared the plans submitted in respect of the application for the development at Y with the floor level in the approved plans for the complainants' houses at 11-31 X.

13. A revised layout plan, prepared by the developer on 21 March 2002 (Plan C), was submitted to the Council on 3 May 2002. This plan did not show any material change in the houses on the plots at Y adjacent to the complainants' properties. There was, however, a change to one house type in the centre of the development and a proposed re-orientation of one other house. The Council did not request the applicant to re-notify neighbours in respect of those changes or when further amendments to the site layout plan were submitted at a later date.

14. By 5 June 2002, a Principal Planner (Officer 2) had become involved in the consideration of the proposals. He had telephone discussions with the developer's representatives and a meeting was held on 12 June 2002. Officer 2 wrote to the developer stressing the requirements of the 1996 development brief, an integral part of which was the provision of a direct road linkage between X and Y. Part of this route was not in the developer's ownership.

15. Detailed planning consent was granted on 6 November 2002 and a decision notice issued on 7 November 2002 subject to thirteen conditions. The developer's

attempts to secure prior compliance with stipulations most notably control over the route of the link road, delayed a start to work on the site.

16. On 27 November 2003 the developer wrote to the planning service providing information with a view to seeking to discharge various conditions of their planning consent. The Council did not reply to the letter immediately (see paragraph 18).

17. Work on site did not start until early January 2004. Mrs C stated that for the first three weeks there was considerable movement of earth adjacent to the northern boundary of the site. She first corresponded with the developer directly on the issue of the perimeter fencing. In April 2004 she became alarmed at the height of the foundations being laid and concerned that the houses would detract from her privacy both through overlooking and by restricting the amount of sunlight reaching her garden. She raised her concerns with her local councillor and her Member of the Scottish Parliament at a joint surgery. As a result of that meeting, a planning enforcement officer (Officer 3) visited Mrs C on 28 April 2004. He confirmed by letter of 4 May 2004 that he would be writing to the developer.

18. On 6 May 2004, Officer 3 wrote to the developer and apologised for the planning service's failure to respond previously to the letter of 27 November 2003 (paragraph 16). He raised a number of issues including parking of cars and delivery vehicles and the lack of wheel cleaning facilities for construction site vehicles. His letter informed the developer that there had been complaints regarding the location and height of two villas currently being constructed, and asked for confirmation that these houses, together with the others on site have been, are being, and will be built in accordance with the approved plans and sections, particularly with respect to levels. Additionally, he asked the developer to confirm that the ground and house levels along the northern part of the site would comply with the planning permission. Officer 3 relayed the X residents' concern that a proposed new 1.8 metre high screen fence to be erected on the northern boundary of the Y development site would create a dead area of land between existing fences and could provide difficulties for future fence maintenance. A meeting was offered to discuss further details submitted for approval by the developer on 27 November 2003.

19. The meeting to discuss the acceptability of details submitted for approval on 27 November 2003 took place on 24 May 2004 attended by representatives of the developer and the then Team Leader (Officer 4), who confirmed the outcome in a letter of 26 May 2004 to the developer. His letter made no reference to the height of the houses but he reminded the developer that a reply was awaited to Officer 3's letter of 6 May 2004.

20. Officers 3 and 4 accepted an invitation to attend a meeting of the local community council on 14 June 2004. They were reported as having stated that the houses on the adjacent site were being built in accordance with the approved plans. A further meeting between residents and Officer 3 on 29 June 2004 failed to allay the residents' concerns about the height of the new houses.

21. Officer 3 met with a representative of the developer on site on 27 July 2004. On 30 July 2004, the developer wrote to the Area Planning Manager attaching a copy of survey results for the finished floor levels taken at plots 22 to 29 of the Y houses and signed by Officer 3 on site. These revealed only minor discrepancies (of -22mm, +15mm and +16mm respectively) between the actual and approved finished floor heights of three of the new houses. By this time, runoff from the site had flooded one X resident's rear garden

22. Following her initial contact with the Scottish Public Services Ombudsman's office on 23 July 2004, Mrs C wrote to the Council's Chief Executive submitting a complaint on 9 August 2004. Mrs C's letter was passed to a new Principal Planner (Officer 5) for a response.

23. On 24 August 2004, Officer 5 spoke with representatives of the developer and wrote the same day regarding plots 22 to 27. Notwithstanding the understanding reached at the meeting between the enforcement officer (Officer 3) and the developer on 27 July 2004, Officer 5 considered that there were 'distinct discrepancies between the approved plans and those submitted recently in terms of the existing and proposed ground levels in the back garden areas of these plots'. Officer 5 drew attention to a particular revision (Plan B Revision AA) showing changes to the ground levels along the northern boundary of the site in each plot. Officer 5 concluded that the survey information provided by the developer's engineers at the planning application stage had been 'erroneous'; the discrepancy

having only recently been highlighted. Officer 5 stated that the failure by the developer and their agents was clearly unacceptable to the Council. The developer was advised to cease all construction work in connection with the dwelling houses on plots 22 to 27 to enable the Council to consider its position relative to the relationship of the proposed dwelling houses to existing houses 'as a result of this significant change in ground levels which has resulted'. He warned the developer that the Council might require to pursue formal enforcement proceedings.

24. The next day, 25 August 2004, Officer 5 responded to the complainant's letter of complaint of 9 August 2004 to the Chief Executive. He recapped the actions taken by the Planning Service. He stated that information from the developer had confirmed that the floor levels of the houses have been set in accordance with the approved plans. He understood Officer 3 had confirmed this in conversations with Mrs C and other residents and had written to the developer on other issues on 13 July 2004 (paragraph 18). With regard to Mrs C's main concern relating to the levels, Officer 5 stated that the developer's engineers had submitted updated drawings which demonstrated that their original survey of the ground levels were shown to be higher than is actually the case. The latest drawings showed the levels ranging between 165.10 and 166.95 metres. At most, therefore, the new houses on plots 24, 25 and 26 were approximately 1.5m, 1.4m, and 1.25m respectively more above the actual ground level at the boundary than had originally been envisaged by the developer at the planning permission stage. This survey information provided by the engineers was, in Officer 5's view, critical to the substantial change in levels which has occurred on site. Neither the developer nor their engineers had formally notified the Council of the likely impact of the error which the Council found clearly unacceptable. Officer 5 stated that the Planning Service was seeking an explanation from the developer and had advised them to cease all construction work in connection with the dwelling houses on these plots in the meantime. With regard to Mrs C's concerns regarding an alleged change in the plans for this development, Officer 5 confirmed that only one house type was changed at the request of the planning officer who dealt with the application at that time and that no other changes to the layout plan existed on the application file. Officer 5 stated that the Council's practice of retaining superseded information on the planning application files, while not required by statute, had proved useful as an audit trail.

25. Officer 5 indicated that he would be seeking a further meeting with the developer's representatives. That meeting took place on 3 September 2004. The outcome of that meeting was not reported to Mrs C before she and another of her neighbours (a community councillor) met with representatives of the developer on 10 September 2004. A further flooding incident, which had occurred on 24 August 2004, and the issue of screen fencing were discussed. The developer's representatives maintained that the floor level of the houses under construction had been approved by the Council.

26. Mrs C sent a further letter to the Chief Executive on 24 September 2004 complaining that she and other residents at X had not been kept informed of the meeting between the Council and the developer on 3 September 2004. She indicated that she had learned that the floor level of the newly built house to the rear of her property was 168.7 metres and her floor level was 164.5 metres. The consequence of the 4.2 metre difference in height was that the new house looked directly into her living quarters. Mrs C asserted that the ground level immediately behind her rear fence had been level but clay and earth had been imported by the developer and the new houses had been put on top of the new ground level. Mrs C further referred to drainage problems and stated her garden and those of her neighbours had been flooded. Work had not started on the rear drains yet the new houses were due for completion at the end of October 2004. Mrs C requested that the bungalows be demolished and re-built to a height that did not impinge on their light and privacy.

27. The Chief Executive responded to Mrs C's letter on 22 October 2004. His letter commenced with an apology to Mrs C if she considered that the service she had received from members of staff in the Council's local office had not been to her satisfaction. He indicated that, whereas the officers concerned had not written, they had communicated orally. The Chief Executive detailed the meetings which had been held with the developer. He confirmed that the floor levels of the houses had been set in accordance with the plans which were approved at the time of the planning permission being granted in November 2002. These had been checked on several occasions by the developer's engineers and Development Services staff and been found to be accurate. He explained that the developer had proposed the finished floor levels for the houses and planning permission was granted for them

to be set at those levels in order that foul and surface water drainage could drain by gravity to new sewers installed under the new road fronting those houses within the development site. This drainage scheme formed part of the development approved at the planning stage by the Area Development Committee and had also been considered acceptable by Scottish Water. The Chief Executive stated that the discrepancy between information on the approved plans and on recently submitted drawings was raised in a letter of 24 August 2004 to the developer. While the developer had been advised to cease construction work on specific plots, he chose to continue and did so at his own risk. Development Services had also requested the developer to submit proposals to overcome the overlooking issue by way of an alternative boundary treatment. Officer 5 met with the developer on 12 October 2004 and the Chief Executive understood plans were about to be submitted. Mrs C was informed that if she remained unhappy she could refer her complaint to the Ombudsman's office.

28. On 27 October 2004, a report was submitted by Development Services to the Area Development Committee. The report stated that since the granting of planning permission on 7 November 2002, several planning conditions requiring the submission of further details to the Council had not been satisfactorily discharged and remained outstanding. It was stated that plans showing changes in the ground levels had been submitted by the developer's engineers showing the levels which were to be created on the site and these plans had never been approved. Several breaches of planning control were considered to have taken place including additional engineering works to raise ground levels in the rear garden areas of plots 24-30 and structures added to the rear of the dwelling houses on these plots to form raised decked areas. These structures were not shown on the approved house type plans.

29. The report sought authorisation from the committee to issue an enforcement notice including the service of a stop notice to remedy the breaches of planning control. It indicated that the developer had also been given the option of submitting a planning application for the works carried out to date and for proposed fencing, retaining walls and landscaping works at the affected plots. The Area Development Committee agreed at its meeting on 27 October 2004 to authorise the service of a stop notice and enforcement notice.

30. Mrs C, having completed the Council's complaints procedure, wrote to the Ombudsman on 29 October 2004, asking that this office take the matter further.

Mrs C stated that it had taken officers four months to report a purported error and a further two months to seek authorisation from committee for a stop notice and enforcement notice. She felt more timely action could have reduced the worst consequences of the development for the X residents' privacy, loss of sunlight and outlook and could have reduced the likelihood of flooding.

31. On 5 November 2004, councillors and officers from the Council held a site meeting with the developer, the outcome of which was reported back to residents by two councillors. Among proposals mooted was the provision of more adequate drainage, for a retaining wall to be built one metre from the existing residents' fences, and for vertical boarded fencing to be erected on top of the wall. Part of the drainage channel had been installed and the retaining wall erected when I visited the complainant on 12 November 2004. At that meeting, a neighbour (Mr B) whose house is at the west end of X stated that he believed that houses on plots 28, 29 and 30 at Y had been raised by the developer to facilitate the laying of foul and surface water drains to the front of those properties, but that the path of the drainage had subsequently been altered from the front to the rear and could, therefore, have allowed the finished floor levels in those plots to have been lowered.

32. My initial enquiry of the Council was made on 19 November 2004 and detailed the four heads of complaint at paragraph 2.

33. In the meantime, Mr B and another resident visited the Council offices on 25 November 2004. They inspected relevant files and discussed matters with Officer 5. Arising from the visit it appeared to them that ground levels were misrepresented on the plans for plots 24, 25 and 26 at Y and, according to Mr B, it appeared that plots 27, 28, 29 and 30 showed wrong spot ground levels. The neighbour sent an email to the Council on 30 November 2004.

34. The Chief Executive acknowledged receipt in his reply of 1 December 2004 to earlier correspondence from Mr B. He explained that, although enforcement action had been authorised, further discussions had been held. Three specific actions to remedy breaches in development control had resulted. Site workers' vehicles were

now parked elsewhere. A planning application for engineering operations to form a link road between site Y and X had been submitted. A second planning application for the re grading of rear garden ground and erection of walls and fences at plots 24-30 at Y had also been submitted. Although the Chief Executive anticipated that both applications would be placed before the Area Development Committee on 8 December 2004, it was not until the committee meeting on 12 January 2005 that they were determined (see paragraph 48).

35. Mr B provided the Ombudsman with a copy of his correspondence with the Council. He identified his two concerns as being whether errors or misrepresentations had been made on the application documents thereby misleading the planning department as to the true ground levels on site and whether planning permission had thereby been obtained to erect houses at unnecessarily high levels. He stated that the finished floor levels of houses in plots 28, 29 and 30 were approximately three metres from the ground level at his boundary fence at a distance of 10 metres from the fence to the new house, thus even the 2.8 metre high proposed fence would give no privacy to the X residents.

36. In a further letter to the Ombudsman of 21 December 2004, Mr B claimed that the finished floor levels for plots 24-30 were added 4 months after the application had been made and without issuing neighbourhood notification.

37. In his response of 10 January 2005, to my letter of enquiry of 19 November 2004, the Chief Executive stated that Officer 5's letter of 25 August 2004 to Mrs C was inaccurate in stating that the houses were higher than they were approved. This was not the case. The Chief Executive maintained with regard to paragraph 2(a) that it was the garden ground levels which had been formed to a higher level than was originally envisaged and that this had highlighted the real differential between the proposed site levels and the ground levels and house levels of properties in X. With regard to paragraph 2(b), further information and amended plans had been submitted about which neighbours did not receive further notification. In respect of paragraph 2(c), the floor levels of the houses had not in fact been raised, they accorded with the approved levels.

38. The Chief Executive stated that the plans supplied by the developer in connection with the original application illustrated gradually sloping garden

gradients to the rear of plots 24-30 towards the existing boundary fences of the X properties. Based on the interpretation of these plans that the new houses would be slightly higher but not significantly so to merit investigation by Development Services, the plans submitted by the applicant were considered acceptable for planning permission to be granted.

39. The Chief Executive confirmed that the changes to foul and surface water drains on plots 28, 29 and 30 (at Y), did contradict the original intention to install drains to the sewers under the road along the front of these plots. However, these drainage matters were dealt with under Building Regulations and not the Planning Regulations. The planning permission granted to the developer had required more details to be submitted to the Council in terms of how it was proposed to deal with surface water from the site. This had been done to ensure there would be no local flooding or flooding further downstream as a consequence of the development. A scheme to satisfy these concerns was submitted to, and approved by, Planning, Building Control and Transportation Services. The detailed matters relating to the installation of the approved system was then overseen by Building Control staff in line with Building Regulations. There was no requirement for neighbours to have been notified of this change in the position of the surface water drains as it had not required planning permission. There was no legal requirement or usual practice for neighbour notification under the Building Regulations.

40. The Chief Executive concluded his letter by stating that it was unfortunate that the applicant had not supplied information on the garden ground levels in full at the application stage. Further, he stated that, with hindsight, it would have been preferable for that information to have been available. The Council accepted that the resultant development was not completely satisfactory and was not what was envisaged by the original planning permission. The Council were taking steps to address this and to reach a solution that addressed the issues for the residents of X and satisfied the developer and also those who had purchased the new properties. He added that Development Services had noted how the application was dealt with and would be addressing the issues in a then current review/restructuring of the Service in order to build on further improvements in assessing planning applications.

41. On 12 January 2005 the Area Development Committee approved the application for the erection of a retaining wall and fence, formation of gravel drainage channel and re-grading of garden ground at plots 24 through to 30 of the new development, together with an application for engineering operations in connection with the link road.

42. A copy of a draft report of this investigation was sent to Mrs C, Mr B, and the Council and they have had the opportunity to comment.

Conclusions and recommendations

43. The differential in finished floor height between the houses newly constructed at Y and residents' houses at X is greater than the Council and complainants expected and the garden ground levels of plots on the northern perimeter of Y were initially formed to a higher level than shown in the approved plans. The consequence was that the gardens and houses of the complainants at X are overlooked and their gardens are more overshadowed.

Complaints at paragraph 2(a) and 2(b)

44. Planning authorities assess proposals made to them on their merits having regard to the development plan and to relevant central government advice and guidance. They should also have regard to relevant representations made by objectors and statutory consultees.

45. The plans available to those who attended the Council offices in the period after 18 December 2001 contained insufficient information upon which to make an informed judgement about the relative height differentials. No written record exists of this matter being queried by an X resident.

46. The Development Service regarded the initial application to be invalid and sought further information which was received after the period for comment had expired. Even then, the information submitted lacked proper detail to enable the issue of the relative height of the proposed to the existing houses to be fully assessed and further information was sought on 15 February 2002. If that information was requested as being material for the proper consideration of the proposals and had not been brought previously to the attention of neighbours then the Council should have insisted on re-notification. That process would not have

delayed the processing of the application but would have ensured that neighbours could have made an informed assessment of the proposals upon their amenity. Had the complainants had fuller information on the applicant's proposals, then they might well have had input to a revision of those plans resulting in houses at a lower and more acceptable relative height. I uphold the complaint at paragraph 2(b).

47. Crucially, once the Council were in receipt of relevant finished floor levels for the houses at Y, they did not properly assess the consequences for the complainants' amenity. In terms of the complaint at paragraph 2(a), the Council on 6 November 2002 approved plans which did not show the significant height differential between the proposed houses at Y and existing houses at X. The position and proposed height of the new houses was not misrepresented in the approved plans, but those plans did misrepresent the height at the boundary with the complainants' properties. I uphold the complaint at paragraph 2(a).

Complaint at paragraph 2(c)

48. Given that the developer, after investigation, was found to be building the new houses at Y in the correct place and, within an acceptable tolerance, at the correct height, the Council's powers of enforcement were limited. Ground levels between the houses and the boundary were higher than approved and were deemed to be a breach of development control. The developer did not build the houses at a higher level than in the approved plans. The Council could not, therefore, have taken action in that regard. I do not uphold the complaint at paragraph 2(c).

Complaint at paragraph 2(d)

49. From the time in April 2004 when Council officers were alerted by Mrs C to the possibility that the houses at Y were not being built according to approved plans, I consider that they devoted a considerable amount of energy to investigating the matter and took appropriate action. That action is described more fully in the report of the related complaint submitted by Mr B (200500224). I do not uphold the complaint at paragraph 2(d).

Recommendation

50. The new houses at Y are imposing and, being situated immediately to the south, they overshadow the gardens of the complainants. The complainants regard their privacy to have been diminished. They also consider their properties

may have been devalued as a consequence of the height differential between their houses and the new houses at Y. In the circumstances, the Ombudsman recommends that the Council arrange for an independent valuer to assess what loss in property value the complainants may have suffered, with a view to the Council then making an appropriate payment to them. The Chief Executive confirmed by letter of 26 April 2006 that he accepted this recommendation and that he would instruct an independent valuation to assess any possible loss in property value. When the report is received, the Council will make appropriate payments. He also confirmed that Development Services intend to issue an updated note to all customers regarding sloping sites and levels and intend to use this case as a working example in staff training sessions.

27 June 2006

Explanation of abbreviations used

Mrs C	The complainant
Mr B	The complainant's neighbour
Plan A	Original layout plans
Plan B	Road layout plan
Plan C	Revised layout plan prepared by the developer
Officer 1	The planning case officer
Officer 2	Principal Planner
Officer 3	A Planning Enforcement Officer
Officer 4	Team Leader at the time
Officer 5	A new Principal Planner
The Council	Fife Council
X	The street where the 11 complainants lived
Y	The site of the thirty new houses under construction