

Scottish Parliament Region: Central Scotland

Case 200503618: Falkirk Council

Summary of Investigation

Category

Local government: Planning; handling of planning applications (complaint by objector)

Overview

The complainant (Mr C) raised a number of concerns about the way in which Falkirk Council (the Council) had dealt with the development of land to the rear of his home and, in particular, the development of the nearest plot (the Plot). He also complained that the Council had failed to respond in a timely manner to his correspondence.

Specific complaints and conclusions

The complaints which have been investigated are that the Council:

- (a) in considering the planning application for the Plot and in treating requests for variations in the finished floor and ground level as non-material, failed to have proper regard to the effect on the amenity of Mr C and his immediate neighbour (Mr B) (*upheld*); and
- (b) failed to acknowledge Mr C's correspondence and respond in a timely manner (*partially upheld*).

Redress and recommendations

The Ombudsman recommends that the Council:

- (i) explore further with Mr C and Mr B whether steps can be taken at the Council's expense to mitigate the detriment to their privacy as a result of overlooking from the house constructed on the Plot; and
- (ii) take steps to ensure that they keep complainants updated when they are unable to respond to their complaints within the published timescales.

Main Investigation Report

Introduction

1. The complainant (Mr C) resides on the south side of X Road in a village near Falkirk. To the rear of his property is a site (the Site) identified in the former Falkirk District Council (the District Council)'s Rural Local Plan of November 1994 as potentially suitable for residential development, which was also in August 1996 the subject of a design brief prepared by Falkirk Council (the Council). Conditional outline consent for 45 plots was issued on 26 February 2003 (Application 1). This was followed on 29 October 2003 by the approval of an application (Application 2) for detailed consent for the formation of access road, drainage infrastructure and landscaping to service 39 plots. The complaint from Mr C centres on the Council's handling of a subsequent application (Application 3) for the approval of reserved matters for the development of a house on the plot (the Plot) immediately to the south of the homes of Mr C and his immediate neighbour (Mr B). After completing the Council's complaints procedures, Mr C was also aggrieved about the way his complaint was handled.

2. The complaints from Mr C which I have investigated are that the Council:
- (a) in considering the planning application for the Plot and in treating requests for variations in the finished floor and ground level as non-material, failed to have proper regard to the effect on the amenity of Mr C and Mr B; and
 - (b) failed to acknowledge Mr C's correspondence and respond in a timely manner.

Investigation

3. The investigation of this complaint is based on information supplied by Mr C and his neighbours and obtained as a result of enquiry of the Council. Mr C was visited by my colleague in October 2007 and I revisited him on 8 April 2009 following the Council's comments on a draft of this report. The then Acting Ombudsman and I also met with the Council's Director of Development Services on 30 April 2009. I have not included in this report every detail investigated but I am satisfied that no matter of significance has been overlooked. Mr C and the Council were given an opportunity to comment on drafts of this report.

(a) The Council, in considering the planning application for the Plot and in treating requests for variations in the finished floor and ground level as non-material, failed to have proper regard to the effect on the amenity of Mr C and Mr B

4. Mr C has resided in a semi-detached house on the south side of X Road since 1973. The frontage of Mr C's house and the house of his immediate neighbour, Mr B, are further set back than other houses on that side of the road, resulting in less depth of their rear gardens than those of their neighbours to the southern boundary common to the Site. The Site was regarded by the District Council in their Rural Local Plan of November 1994 as suitable for residential development when existing constraints were removed with the construction of a new sewer.

5. In August 1996, a design brief was prepared for the residential development of the Site which was partly owned by the Council. The design brief indicated that the Site could accommodate some 60 houses, set out appropriate densities, storey height and house design which should comply with the Council's Design Guide for Buildings in Rural Areas. Paragraph 9.3 of the design brief stated that the developer of the Site would require to submit a landscape plan specifying planting, hard landscaping and means of enclosure.

6. Application 1 for outline planning consent for 45 plots on the privately owned eastern part of the Site was submitted by the overall site developer (the Developer) in October 2001. Mr C and three of his neighbours objected. Application 1 was approved by the Council's Regulatory Committee on 26 February 2003 subject to 33 conditions. Conditions 27 and 28 related to screen fencing. Condition 29 required that, as part of the submission for approval of reserved matters for each plot, details of the proposed finished site levels and finished floor level for each house be submitted to and approved by the planning authority.

7. Application 2, for detailed planning consent for the formation of access road, drainage infrastructure and landscaping to service 39 house plots, was submitted by the Developer later in 2003. Mr C did not object to this application. Consent was granted by the Council's Director of Development Services under delegated powers and subject to 30 conditions on 29 October 2003.

8. On 26 November 2003, the owner of the Plot (Mr D) submitted Application 3 to the Council for the approval of reserved matters. Mr C and Mr B received neighbour notification but neither objected. That application was considered by a Council planning case officer (Officer 1) as a 'list item'. No formal report was written but a list of conditions was produced for approval under delegated powers by the Council's then Development Control Manager. Notes were provided by the Council under cover of a letter of 15 September 2006 in response to a request by my colleague for a copy of the case officer's report. The note provided records that the proposed house on the Plot had been positioned to give maximum separation (approximately 6 metres) to the adjoining properties on X Road to respect their privacy. It also recorded that the separation from the boundary from the properties on X Road was approximately 7 metres to the nearest point (extended porches) on the ground floor level but that these windows should not be visible to or from the ground floor windows of the house on the Plot due to the differences in ground levels, existing wall, and the possible construction of a 6 foot (1.825 metre) palisade fence. The note commented that the porches also had the advantage of being already additionally screened by the use of vertical blinds. Upstairs windows of the bathroom and en-suite would be fitted with frosted glass and it was expected that there should not be a problem compromising privacy. The height of the property would be kept to a minimum by keeping the top of the upper floor windows level with the soffit. A 6 foot (1.825 metre) wooden palisade fence would be erected to separate the Plot from adjoining X Road properties to ensure the maximum privacy if required. The note stated that the garden of the Plot had been positioned to afford adjoining properties the maximum of privacy. No contemporary plan was provided during the investigation showing the approved position of the proposed house on the Plot. At a meeting with the Director of Development Services on 30 April 2009 the Director of Development Services commented that the relevant file did not record that these were in fact the case officer's notes.

9. The planning consent for Application 3 was issued on 25 March 2004 subject to six conditions. Condition 1 stated that 'Before any work is commenced on site, details of the height, location and construction of all fences, walls and other means of enclosure shall be submitted to and approved by the planning authority'. The reason for that condition was given as 'To safeguard the visual amenity of the area'. The approved plans showed the proposed

finished floor and ground levels on the Plot to be 181.7 metres¹ and 181.325 metres respectively. A site plan for the Plot, however, date stamped as 'approved' by the Council on 25 March 2004 bears the inscriptions 'new close boarded fence to boundary' where the Plot adjoins other proposed plots and 'existing wall boundary' where it adjoins the properties of Mr C and Mr B. The approved elevation plans show four ground floor windows facing the rear of the homes of Mr C and Mr B which are set at a higher level than the Plot. No approved plan has been provided by the Council showing the proposed position of Mr D's house on the Plot. Mr D did not subsequently submit proposals to meet the terms of condition 1.

10. In the meantime, Scottish Water had on 27 January 2004 approved details submitted by the Developer's consulting engineers regarding sewage and drainage. These details were forwarded to Mr D on 11 August 2004. He was advised that the road level would be 181.95 metres. Mr D then made a request to the Council's Development Services that the finished floor level be raised 400 millimetres to 182.1 metres and the ground level in the Plot to 181.7 metres in order that he could have a fall to the drains at 181.0 metres and allow a 600 millimetre cover.

11. A decision was taken by the Council's Development Services that the proposed change was 'not material' and a planning assistant (Officer 2) responded to Mr D on 6 September 2004 stating that the changes he had proposed were 'acceptable'. The Council have not been able to furnish me with evidence relating to how that assessment was reached.

12. In December 2004, Mr C replaced an existing trellis brick wall with a solid structure of the same height. In late April 2005 he had contractors install 2 metre high new vertical slat fencing along part of his boundary with Mr B and on the inside of his newly reconstructed wall. He also erected a parallel stretch of fencing approximately 60 centimetres in height on top of the wall.

13. After receiving a copy of revised site levels from the Developer's consulting engineers on 20 April 2005 showing a finished ground level of 182.1 metres, Mr D wrote again to the Council's Development Services on 9 May 2005 to request that he be allowed to increase his plot level to 182.1 metres with a finished floor level of 182.55 metres. His letter incorporated

¹ above sea level

two digital images of the new wall then recently constructed by Mr C with the stretch of fencing on top. A planning officer responded on 19 May 2005 confirming to Mr D that 'this is acceptable'. The Council again have not been able to furnish me with evidence relating to how that assessment was reached. They stated, however, that the letter to Mr D was also initialled by a senior planner.

14. For his part, Mr C informed me that he was unaware when he replaced the wall and erected a 60-centimetre high stretch of fencing on top that Mr D had previously made an application to vary the site and finished floor levels.

15. When works behind his house commenced, Mr C contacted the Council and two planning officers visited him on site on 20 July 2005. Mr C expressed concern about the position and height of the new house relative to his home and the compromise to his privacy from overlooking downstairs windows. Mr C subsequently wrote to the Council's Director of Development Services on 1 August 2005 complaining about the effect of Mr D's new house on his privacy. He asked that a stop be put on further construction.

16. Other neighbours were also experiencing problems with the development of adjacent plots (however, in the main, with issues of site drainage). Mr C and five of his neighbours contacted a Member of the Scottish Parliament (the MSP) and she wrote on their behalf to the Council's Chief Executive on 11 August 2005. That letter was passed to the Council's new Development Control Manager (Officer 3). Officer 3 met with Mr C and responded on 9 September 2005 to the MSP. His letter explained that as a consequence of changes in drainage and the need to raise the level of the site access road, finished floor levels in particular plots bounding on the rear gardens of X Road had had to be raised typically in the order of 1 metre. The Council's Development Services were endeavouring to ensure that any potential overlooking issues were dealt with through boundary screening as appropriate. While there had been some localised flooding issues during the construction of the dwelling houses on some of the plots along X Road, Officer 3 understood these had been alleviated by the installation of a field drain.

17. In a separate letter to Mr C, also of 9 September 2005, Officer 3 informed him that the consent for Application 3 contained a condition (condition 1) requiring, amongst other matters, that details of all fences be submitted and

approved by the planning authority before any work commenced on the Site. Officer 3 stated that that matter still required to be regularised by Mr D and would be pursued.

18. Mr C responded to Officer 3 on 3 October 2005 with regard to the two letters. He requested that a boundary fence of adequate height complete with adequate service gap be pursued and installed before the house on the Plot was occupied.

19. Officer 3 replied on 28 November 2005 confirming that since the two changes in heights of ground and finished floor levels had been considered non-material, there had been no requirement to notify Mr C and Mr B. Because of the condition relating to fences, the case officer had not considered it necessary to require the deletion of any windows of the proposed dwelling house on the Plot. It had been considered that there was an adequate distance to Mr C's boundary. Officer 3 stated that he would pursue further with the owner of the Plot the issue of the boundary treatment and would revert to Mr C.

20. Officer 3 wrote to Mr D on 6 December 2005 and visited Mr C at his home on 18 January 2006. The content of the discussion was confirmed by Officer 3 in a letter to Mr C of 26 January 2006. The Developer had offered to supply Mr C and Mr B with fencing as a gesture of goodwill. Officer 3 noted that Mr C and Mr B had confirmed that this was not acceptable and that they wanted appropriate fencing to be erected on Mr D's property. Officer 3 advised that the Developer could not force Mr D to erect fencing on his property. He confirmed that a combination of the proximity of Mr D's dwelling house to the homes of Mr C and Mr B and the increased height of the finished floor level of Mr D's dwelling house meant that there was an impact on privacy for Mr C and Mr B, but these matters were assessed and were considered to be acceptable at the time that the original reserved matters application and subsequent amendments were approved. Officer 3 stated that Mr D had informed him that it was never his intention to erect boundary fencing along his northern site boundary and considered that this was the responsibility of the Developer. Having weighed up the information, including the wording of condition 1 of Application 3, Officer 3 believed that there was no planning requirement on Mr D to erect fencing along his site boundary adjacent to neighbouring properties on X Road.

21. Mr C and Mr B wrote to the Council's Chief Executive on 15 February 2006. They complained of the distance between the new house on

the Plot and their boundary, its height, and the numerous ground floor windows located high above their ground level and looking directly into their lounge and kitchen windows.

22. The Council's Chief Executive replied on 6 March 2006 noting the terms of the correspondence culminating in Officer 3's letter of 26 January 2006. She recognised their position in respect of the impact the construction of the house on the Plot had had but she stated that she was not in a position to order the house to be demolished or re-sited, nor to have the ground floor windows removed, to require the householder to erect a high fence or to offer compensation to off-set any drop in value of their houses.

23. After first contacting the Ombudsman's office by telephone, Mr C submitted his complaint on 10 April 2006. In his submission he stated that he considered that seven houses on the Site had been built too close and too high to his and his neighbours' properties on the south side of X Road and were out of keeping with existing houses and with the Rural Local Plan. He pointed out that the houses were two to three storeys in height, ranged in size from seven to 12 apartments and that there were also proposals to erect three storey townhouses which were out of keeping in a rural village.

24. Mr C observed the distance between his property and the new house on the Plot to be considerably less than that indicated on the original drawing for the new house, and he wrote to Officer 3 on 7 June 2006. Officer 3 considered this to be a new issue and he requested that an enforcement officer visit Mr C on 14 June 2006, following which he wrote to Mr C on 19 June 2006 informing him that the distance of the new house to the boundary is 4.65 metres at the eastern end of the dwelling house, 4.3 metres at the centre and 4.15 metres at the western end. While the overall distance deviated marginally from the approved plans he considered the deviation did not materially affect the amenity of Mr C's property compared to the distance shown on the approved plans. He stated that the decision to take enforcement action against a breach of planning control is at the planning authority's discretion. Since the breach was marginal in this instance (a maximum deviation of 0.5 metre) he did not consider it would be reasonable to pursue formal enforcement action to remedy the breach.

25. In forwarding this correspondence to me Mr C stated that, taken together, Mr D's house had been built 0.5 metre closer and 1 metre higher than planned and deviated from the approved plan in not being sited square on the Plot.

26. The Council informed me that Section 64 of the Town and Country (Scotland) Act 1997 provides that the planning authority may vary any planning permission granted by it, if it appears to the authority that the variation sought is not material. Each request for non-material variation is considered on its own merits and it primarily rests with the professional judgement of the planning officer to decide if a variation is material or not. In this instance, on both occasions, the requests were agreed to as being a non-material variation to the original permission. There is, however, no record on file as to why it was decided at the time by the relevant officers that the changes were non-material. Decisions taken at the time were that the increases in finished floor level of the house on the Plot of a total of 850 millimetres was a non-material variation taking into account relevant considerations such as the form/scale of the property, the existing finished floor level, the requirements for drainage and the relationship of the property to its neighbours. The Council accepted that emerging practice would suggest that any variation to the finished floor level of the order of 400 millimetres to 500 millimetres should be regarded as sufficient to trigger a material variation and, therefore, a requirement to notify neighbours or to submit an amended planning application, but this would be proposal specific. In this case, had the variation been treated as material and been the subject of neighbour notification, then in the view of the Council's Director of Development Services, the outcome would have been the same, particularly bearing in mind the drainage constraints and the relative levels.

27. The Council later provided me with a copy of their current guidance note on dealing with amendments and variations to planning applications. A variation to an application refers to a proposed change to a development subsequent to its approval. When, after consideration of guidance notes on materiality, the proposed variation is deemed to be material, then in terms of the guidance notes a fresh application is required. In cases of minimal change considered to be 'de minimus' they are to be dealt with by letter only. The processing of requests for non-material variation entails two stages, the first to determine if the change proposed is not material and, secondly, if the proposed change is acceptable. Recommendations are made by planning case officers to the Council's Development Manager or a development co-ordinator. Style letters are then sent.

(a) *Conclusion*

28. This investigation has been hampered by a lack of record-keeping by the Council's Development Services to support the discretionary decisions they maintain that they were entitled to take. If these discretionary decisions were taken by officers without evidence of maladministration then the Ombudsman is not able to comment on the merits. The central issue that arises in this case is whether there were flaws in the process, or in maintaining records of the process to grant Application 3, to regard two requests for variation as non-material, and to adjudge a deviation in the position of Mr D's house on the Plot not to require an amendment to the consent. The basis of my finding is not, therefore, that the decisions of the Council were necessarily wrong, but that a lack of proper record-keeping, consistency and clarity in considering the issues amount to maladministration.

29. I was surprised that at a late stage in the investigation, the Director of Development Services called into question the notes quoted in paragraph 8 without providing a copy of a contemporary case officer report. If the note was a contemporary document written in late 2003 or early 2004, it would clearly demonstrate that in assessing the proposals in Application 3, the planning officer gave consideration to the likely detriment to Mr C and Mr B's privacy of the proposed new house. Those notes anticipated that the applicant, Mr D, would provide palisade fencing of the order of 1.825 metres, if required, and that given that the proposed house would be some 6 metres distant from the boundary, and with a difference in ground levels intervisibility of windows would not be problematic. In the absence of contemporary documentary record, the link between condition 1 of the planning consent for Application 3, and the inscriptions on the approved plans of 25 March 2004 is not in my view adequately articulated. Had Mr D been deemed to have made acceptable proposals for his boundary treatments then, ostensibly, there would have been no need for condition 1. The plans approved had a significant bearing on the powers of development control retained by the Council. The net effect was that in line with his stated intentions, Mr D erected palisade fencing between his plot and new housing to the west and south but carried out no works on the north boundary with the existing properties of Mr C and Mr B.

30. With regard to the two requests for variation in the ground level of the Plot, I accept that the Council may exercise their discretion to grant a request to vary any planning permission granted if they consider that the variation sought is non-material. For their decision making to be transparent, a proper record of the matters they took into account is required. In this case, the steps in the

process leading to the Council accepting Mr D's requests of August 2004 and May 2005 as 'acceptable' are not recorded. I regard the lack of record-keeping at the time of the events recorded in this investigation report as a significant shortcoming.

31. The issue of the positioning of the house under construction on the Plot was raised after Mr C's complaint was made to the Ombudsman, was investigated, and a decision was taken not to take action. The distances quoted by Officer 3 at paragraph 24 are considerably less than those set out in the notes quoted at paragraph 8.

32. I believe that when Officer 3 investigated the matter in the summer of 2005, he clearly acknowledged Mr C and Mr B's concern about overlooking from Mr D's house. He sought to establish Mr D's position on the submission of proposals in implementation of condition 1. Mr D responded that his intentions with regard to the treatment of the north boundary of the Plot had been made clear prior to his plans being approved on 25 March 2004. Officer 3 then approached the Developer but a goodwill offer by the Developer to supply screen fencing to Mr C and Mr B was not accepted by them in January 2006 some months before the complaint was submitted to the Ombudsman. Mr C and Mr B's view was that any fencing provided should not be erected on their land.

33. The inadequacy of the Council's contemporary record-keeping has rendered them susceptible to the charge of administrative shortcoming. I consider that in situations where a reserved matters application is delegated to officers to decide, the officer's report should be sufficiently detailed to establish clearly the basis for the imposition of conditions and that any condition imposed should be consistent with the approved plans. The limited contemporary records the Council were able to make available, lead me to conclude that there was a lack of consistency and clarity in considering the particular issues of overlooking and privacy both in granting approval, in considering the two requests made for variation, and in considering the positioning of the house erected on site. I uphold this complaint.

34. I am happy to note the steps taken by the Council (paragraph 27) to provide greater robustness and transparency in the consideration of requests for variation of an approved planning consent.

(a) Recommendations

35. The Ombudsman recommends that the Council explore further with Mr C and Mr B whether steps can be taken at the Council's expense to mitigate the detriment to their privacy as a result of overlooking from the house constructed on the Plot.

(b) The Council failed to acknowledge Mr C's correspondence and respond in a timely manner

36. Mr C complained to the Council on 1 August 2005 and his letter was acknowledged on 5 August 2005. Officer 3 arranged to meet with Mr C on 9 August 2005. Mr C received a full response from Officer 3 on 9 September 2005. In this letter Officer 3 apologised for the delay in his response.

37. Mr C wrote to Officer 3 on 3 October 2005 as he was not satisfied with the response which he had received. Officer 3 responded on 28 November 2005 and apologised for his very late response to Mr C's letter.

38. Mr C wrote again to Officer 3 on 4 December 2005. A meeting was held at Mr C's house on 18 January 2006 and Officer 3 responded to this letter on 26 January 2006.

39. On 15 February 2006, Mr C addressed his complaint to the Council's Chief Executive. His letter was acknowledged on 17 February 2006. Officer 3 wrote to Mr C on 20 February 2006 and suggested that a meeting be convened. On 6 March 2006, the Council's Chief Executive responded to Mr C's complaint.

40. A meeting was held with Mr C and other residents, a local councillor, and Officer 2 and Officer 3 on 16 March 2006. Draft minutes of this meeting were sent to Mr C on 31 March 2006 and finalised minutes were sent on 17 August 2006. Officer 3 explained that finalised minutes had not been produced earlier as the Council had not received confirmation from individuals concerned that they were satisfied with the accuracy of the minutes and that, even though that remained the case, he had decided to finalise the minutes.

41. Mr C complained to the Ombudsman on 10 April 2006 but continued to correspond with the Council. He wrote to Officer 3 on 7 June 2006. That letter was acknowledged on 13 June 2006 and a response was sent on 19 June 2006. Mr C wrote again to Officer 3 on 22 June 2006 and

26 June 2006. Officer 3 responded on 25 July 2006 and apologised for his late response which was due to other work pressures.

(b) Conclusion

42. There were undoubtedly some delays in responding to Mr C's correspondence. The Council's complaints procedure states that they will seek to respond to a complaint initially within seven working days.

43. There was a substantial delay beyond seven working days before the Council responded to Mr C's letter of 3 October 2005. The Council apologised for this delay.

44. The Council also delayed sending out the finalised minutes of their meeting of 16 March 2006 with Mr C and other residents. The proposed minutes were sent out on 31 March 2006, however, the finalised minutes were not sent out for another five months. The Council explained that they had been waiting for those who had attended the meeting to confirm the accuracy of the minutes. Although this is a valid concern, I consider that five months to produce the definitive minutes was too long and the Council should have given relevant parties a deadline to respond to the proposed minutes if they wished any amendments to be made. The Council apologised to Mr C for their delays in responding to his correspondence but, to the extent of the delay in sending the final minutes, I partially uphold this part of the complaint.

(b) Recommendations

45. The Ombudsman recommends that the Council take steps to ensure that they keep complainants updated when they are unable to respond to their complaints within the published timescales.

Explanation of abbreviations used

Mr C	The complainant
X Road	The road on which Mr C lived
The Site	An area of 3.84 hectares lying immediately to the south of X Road
The District Council	The former Falkirk District Council
The Council	Falkirk Council
Application 1	Application for conditional outline planning consent for 45 plots issued on 26 February 2003
Application 2	Application for detailed planning consent for the formation of access road, drainage infrastructure and landscaping to service 39 plots granted on 29 October 2003
Application 3	Application for approval of reserved matters in respect of the Plot issued on 25 March 2004
The Plot	An individual plot immediately to the south of Mr C and Mr B's homes
Mr B	Mr C's immediate neighbour at X Road
The Developer	The planning applicant in respect of Application 1 and Application 2

Mr D	The applicant in respect of Application 3 for the Plot
Officer 1	The Council's planning case officer who considered Application 3
Officer 2	The Council's planning assistant who considered the first request to vary proposals in respect of Application 3
The MSP	Member of the Scottish Parliament
Officer 3	The Council's former Development Control Manager (from August 2005)

The Council's Planning Guidelines on Privacy and Overlooking

Part 4 of Policy SC6 in the Council 'Local Plan Finalised Draft (Deposit Version) (April 2007)' relates to Housing Density and Amenity and states that housing layouts should be designed to ensure adequate privacy and to avoid excessive overshadowing of houses or garden ground. A minimum distance between overlooking windows of 18 m will generally be required.

The Council explain that this standard (18 m) emerged from an old Building Control standard and is related to directly facing windows of habitable rooms on the same plane. The introduction of angles or level changes between windows reduces this indicative distance based on a sliding scale. The standard has no basis in law but is widely used throughout Scotland by planning authorities. Occasionally the standard can be relaxed. To this end every case requires to be dealt with on its individual merits.

The Council's 'Supplementary Planning Guidance Note: House Extensions and Alterations (May 2006)'. While the house on the Plot was not an extension or alteration, this guidance reflects Policy SC6 of the 'Local Plan Finalised Draft (Deposit Version) (April 2007)' in that windows of habitable room and/or conservatories should be a minimum of 18 m.

Section 2.1 of the Council's 'Supplementary Planning Guidance Note: Housing Layout and Design (February 2007)' considers site characteristics and constraints. In terms of visual characteristics and constraints, the guidance note states that 'visual character structures and buildings within and adjacent to the site should be noted for the new architectural character to relate'. The Council accept that whereas one and a half storey houses at plots adjacent to the houses on the south side of X Road would have been more reflective of existing housing, the Council maintain that it is not uncommon to have a variety of house types and styles adjacent to each other and, therefore, characteristic of an area.