

COMMITTEE REPORT

APPLICATION DETAILS

APPLICATION NO:	DM/18/03060/FPA
FULL APPLICATION DESCRIPTION:	Two bungalows to replace approved bungalows on plots 14, 15 and 16 within housing application DM/17/01683/FPA
NAME OF APPLICANT:	Karbon Homes Ltd.
ADDRESS:	Site of former Ouston County Infants School (Plots 14 and 15) Cromarty, Ouston, Chester-le-Street
ELECTORAL DIVISION:	Pelton
CASE OFFICER	Fiona Clarke Principal Planning Officer Telephone: 03000 264868 fiona.clarke@durham.gov.uk

DESCRIPTION OF THE SITE AND PROPOSALS

The Site

1. The application site forms part of a larger site which was formerly occupied by Ouston Infants School, Cromarty, Ouston where planning permission was granted in September 2017 for a development of 16 bungalows (DM/17/01683/FPA). The site infrastructure, including roads, have been constructed within the larger site and work is well underway on many of the properties. The foundations have been installed on the plots that are the subject of this application in accordance with the previous application however, work on these specific plots has stopped. Due to a change in levels between the site and the adjacent properties in Cromarty, the application site is set at a higher level than the adjoining houses.

The Proposal

2. The application has been submitted following the receipt of concerns from residents at the south eastern corner of the site regarding the works taking place in relation to the previously approved scheme described above. Residents were particularly concerned about the height at which the properties were being erected, surface water run off/flooding and the structural stability of the site. Whilst investigations showed that the development is taking place in accordance with the approved plans, planning officers had concerns about the relationship between the dwellings under construction and the existing dwellings, in particular the proximity of the windows of principle rooms to those of the adjacent two storey dwellings. The ramifications of the changes in levels between the application site and the surrounding dwellings had not been fully accounted for in the determination of the application which is partly attributable to the fact that the site levels were altered when the former school was demolished. Detailed discussions with both Karbon Homes and the development contractor to

improve the scheme has resulted in the submission of the application currently under consideration.

3. The current application relates only to the area of the larger site where planning permission was granted for three bungalows and is not a resubmission of the entire original application therefore the application only relates to these plots. In response to the concerns expressed above by residents the applicants have made the following changes –
 - The three bungalows on plots 14, 15 and 16 will be replaced with two bungalows which will be known as plots 14 and 15.
 - The approved bungalow that was in the centre of the terrace will be removed.
 - The orientation of the dwellings has changed through the repositioning of windows to habitable rooms.
 - Enhanced boundary fencing/screening have been provided.
 - Details of retaining structures have been submitted.
 - An explanation has been provided regarding drainage and site stability.

Notwithstanding the above, the plans submitted with this application show that the proposed properties will be erected at the same level as previously proposed. The applicant has advised that it is not possible to reduce the levels due to the requirements to provide level access in accordance with the Building Regulations and Disability Discrimination Act (DDA).

4. As a response to the representations received during the public consultation exercise on this application further revised plans have been submitted. These amend the levels of the garden area to plot 14 and provide enhanced screening between this dwelling and the existing properties in Cromarty. A 1.8m high hit and miss timber fence will be provided between the upper and lower garden areas which will screen the garden area of plot 14. Regarding plot 15 a path will be constructed around the side elevation of the property (facing towards Cromarty) screened by a 1.2m high trellis. The garden area will be stepped down by approximately 0.8m and the garden will slope down towards 92 Cromarty from which it will be separated by a 1.8m high fence. In addition, planting will take place in strategic locations to interrupt intervening views.
5. This application is reported to Committee at the request of Councillor Batey to enable the Members of the Committee to consider the impact the development has on residential amenity as per the guidelines laid out in Policy HP9 of the Chester-Le-Street Local Plan.

PLANNING HISTORY

6. Prior Notification was given for the demolition of the former Ouston County Infants School, Cromarty, Ouston on 25.11.15 (DM/15/03330/PND).
7. Planning Permission was granted on 26.09.17 for the construction of 16 new build bungalows and associated footways and landscaping (DM/17/01683/FPA).

PLANNING POLICY

NATIONAL POLICY

8. The Government has consolidated all planning policy statements, guidance notes and many circulars into a single policy statement, the National Planning Policy Framework (NPPF), although the majority of supporting Annexes to the planning policy statements are retained. The overriding message is that new development that is sustainable should go ahead without delay. It defines the role of planning in achieving sustainable development under three topic headings – economic, social and environmental, each mutually dependant.
9. The NPPF requires local planning authorities to guide development towards sustainable solutions whilst taking local circumstances into account, to reflect the character, needs and opportunities of each area.
10. In accordance with paragraph 213 of the National Planning Policy Framework, the weight to be attached to relevant saved local plan policy will depend upon the degree of consistency with the NPPF. The greater the consistency, the greater the weight. The relevance of this issue is discussed, where appropriate, in the assessment section of the report below.
11. The following elements of the NPPF are considered relevant to this proposal;
12. *NPPF Part 2 - Achieving sustainable development* - The purpose of the planning system is to contribute to the achievement of sustainable development and therefore at the heart of the NPPF is a presumption in favour of sustainable development. It defines the role of planning in achieving sustainable development under three overarching objectives – economic, social and environmental, which are interdependent and need to be pursued in mutually supportive ways. The application of the presumption in favour of sustainable development for plan-making and decision-taking is outlined.
13. *NPPF Part 4 - Decision-making* - Local planning authorities should approach decisions on proposed development in a positive and creative way. They should use the full range of planning tools available, including brownfield registers and permission in principle, and work proactively with applicants to secure developments that will improve the economic, social and environmental conditions of the area. Decision-makers at every level should seek to approve applications for sustainable development where possible.
14. *NPPF Part 5 - Delivering a sufficient supply of homes* - To support the Government's objective of significantly boosting the supply of homes, it is important that a sufficient amount and variety of land can come forward where it is needed, that the needs of groups with specific housing requirements are addressed and that land with permission is developed without unnecessary delay.
15. *NPPF Part 9 - Promoting sustainable transport* - Encouragement should be given to solutions which support reductions in greenhouse gas emissions and reduce congestion. Developments that generate significant movement should be located where the need to travel will be minimised and the use of sustainable transport modes maximised.

16. *NPPF Part 12 - Achieving well-designed places* - The Government attaches great importance to the design of the built environment, with good design a key aspect of sustainable development, indivisible from good planning.
17. *NPPF Part 14 - Meeting the challenge of climate change, flooding and coastal change* - The planning system should support the transition to a low carbon future in a changing climate, taking full account of flood risk and coastal change. It should help to: shape places in ways that contribute to radical reductions in greenhouse gas emissions, minimise vulnerability and improve resilience; encourage the reuse of existing resources, including the conversion of existing buildings; and support renewable and low carbon energy and associated infrastructure.

NATIONAL PLANNING PRACTICE GUIDANCE:

18. The National Planning Practice Guidance (NPPG) both supports the core government guidance set out in the NPPF, and represents detailed advice, both technical and procedural, having material weight in its own right. The advice is set out in several topic headings and is subject to change to reflect the up to date advice of Ministers and Government.
19. *Design - The importance of good design.* Good quality design is an integral part of sustainable development. The National Planning Policy Framework recognises that design quality matters and that planning should drive up standards across all forms of development. As a core planning principle, plan-makers and decision takers should always seek to secure high quality design, it enhancing the quality of buildings and spaces, by considering amongst other things form and function; efficiency and effectiveness and their impact on wellbeing.

LOCAL PLAN POLICY:

20. The following saved policies in the Chester-le-Street Local Plan 2003 are relevant to the consideration of this application.
21. *Policy HP6 - Residential within settlement boundaries* – Proposals for residential development will be permitted within the defined settlement boundaries of a number of listed settlements providing it is classed as previously developed land and meets the general criteria of Policy HP9.
22. *Policy HP9 - Residential Design Criteria (General)* - requires new development to; relate well to the surrounding area in character, setting, density and effect on amenity of adjacent property, to provide an attractive, efficient and safe residential environment, to provide adequate privacy and amenity, safe road access and retain existing landscape features.
23. *Policy T15 - Access and Safety provisions in design* - Development should have safe access to classified road, should not create high levels of traffic exceeding the capacity of the local road network, and have adequate links to public transport, with consideration for cyclists and service vehicles and emergency vehicles.
24. *Policy T17 - General Policy* - All new developments should have regard to and be consistent with the provision of a safe and accessible transport network, in particular through reducing reliance on the private car, encouraging the use of public transport and promoting cycling and walking

RELEVANT EMERGING POLICY:

25. Paragraph 48 of the NPPF says that decision-takers may give weight to relevant policies in emerging plans according to: the stage of the emerging plan; the extent to which there are unresolved objections to relevant policies; and, the degree of consistency of the policies in the emerging plan to the policies in the NPPF. An 'Issues & Options' consultation was completed in 2016 on the emerging the County Durham Plan (CDP) and the 'Preferred Options' was approved for consultation at Cabinet in June 2018. However, the CDP is not sufficiently advanced to be afforded any weight in the decision making process at the present time.

The above represents a summary of those policies considered most relevant in the Development Plan the full text, criteria, and justifications of each may be accessed at <http://www.cartoplus.co.uk/durham/text/00cont.htm>.

CONSULTATION AND PUBLICITY RESPONSES

STATUTORY RESPONSES:

25. *Highways* – note that the proposal would result in the removal a two-space approved visitor parking layby which would result in parking problems for future residents. If an adoption standard visitor parking space layby for a single vehicle was provided to the westside of plot 15 entering the site, no highways objection would be raised.

INTERNAL CONSULTEE RESPONSES:

26. *Drainage and Coastal Protection Officer* – advised that the proposal will have very little effect about the management of surface water for the development and therefore has no comments to make.

PUBLIC RESPONSES:

27. Ten letters of consultation were sent out to immediate neighbours surrounding the application site. This has resulted in eleven letters of representation being received from the ten immediate neighbours, with the concerns summarised as follows:
- The new plans do not address concerns but raise new ones.
 - Overlooking/loss of privacy to bedrooms (including children's), bathrooms and gardens.
 - Loss of light due to the height of the bungalows.
 - Overbearing impact due to height.
 - The distance between the bungalows and the existing houses is unreasonable.
 - Bungalows at same height as adjacent two storey houses.
 - There was a stipulation when the land was sold that only bungalows could be built and that these would not encroach on existing dwellings or affect privacy.
 - Originally, the site was level with the base of our fence.
 - At the time of the original application it was not clear that the land would be built up and the relationship between the new bungalows and the existing houses was not clear.
 - Ground levels have increased massively – the extent of this was not shown on the original plans otherwise objections would have been raised.
 - The height of the bungalows exceeds expectations given by original application and residents did not have any idea of the height relevant to their homes at the time of the original application.

- The development does not fit in with its surroundings due to the levels changes.
- Concerns about surface water drainage and water running into gardens and properties.
- Impact of surface water drainage on fencing and log retaining structures (will cause rotting).
- The drainage installed is different to that agreed with the original application (water attenuation tanks have not been installed) – is this fit for purpose?
- Drainage issues have worsened since the development began. Who will be responsible for damage to my property in the event of flooding/landslides?
- Stability of the foundations and concerns about subsidence given that the bungalows have been constructed on made up ground.
- Have the foundations been checked by the Building Inspector?
- The timber retaining wall will not be adequate. In time it will deteriorate and rot causing subsidence.
- No retaining walls are proposed to the rear of my property to support the land which has been raised by approximately 3 metres plus the bungalow.
- Additional weight could cause slippage and landslide into my property.
- Doubts over the capability of fences/log retaining walls to hold back the additional weight of the land.
- Lack of respect for residents.
- Difficulty in visualising plans prior to work commencing.
- Plans to extend our property may be declined because of this development.
- Request an independent assessment of all plans and information and no further work should be undertaken until this has been done.
- Planning Department must be held accountable for allowing work to get to this stage -stress and upset for residents. Approval of the application shows disregard for residents and an incompetency of the Planning Department in assessing the height in relation to existing dwellings.
- Loss of confidence in Karbon Homes.

28. In addition, four representations have been received from a resident that does not live adjacent to the current application site but next to the originally approved development. The comments are as follows –

- Concerns in the way that the perimeter fence has been shored up. It is expected to hold back a lot of weight and the wooden posts that have been used will rot within 10 -15 years. The objector would like assurances that the Council will adequately repair this when this happens and that he will bear no responsibility.
- Since work on the site commenced my back garden has flooded regularly.
- At the pre-application meeting we were told that large water storage tanks were to be installed to prevent any excess water flowing into gardens, however these have not been installed – this horrifies me.
- Concerned about the height of the bungalows which have a high-pitched roof and will look into my children's bedrooms.
- Loss of privacy and light.
- It looks like the bungalows are closer to our properties than shown on the plans.
- No consideration was given to the fact that the existing dwellings are stepped down on a falling gradient on each side of the site.
- At the time of the original application it was not clear that the land would be built up and the relationship between the new bungalows and the existing houses was not clear. Insufficient information was provided to allow a full assessment to be made and the application was flawed.

- The developer made it clear to the County council that the land was to be re-graded and re-profiled but either through misrepresentation or misunderstanding this was never passed on or discussed.
- Lack of empathy and respect to residents living at the bottom of the hill who look onto a mound of earth. Common sense would have dictated that this would never be acceptable.
- It was expected by everyone that the bungalows would follow the slope of the land and it was not expected that the land would be built up.
- Concerns regarding rubbish being blown off site and Health and Safety Regulations not being adhered to.
- Request that an amended application is drawn up to address the original shortfalls in order for homeowners to reappraise and if necessary react to the proposals therein.

29. In response to the amended plans six further responses have been received on the following grounds –

- The amended plans still do not address original complaints and in particular the issue of the height. The height of the heras fencing around the site is 1.8m high yet you can clearly see from the photos I submitted that the builds are higher than this fencing therefore have not been built to the plan (this was 1.2m – this is without addressing the issue that DCC increased the height of the land prior to sale).
- No land levels were taken for the site prior to the demolition of the school. The land was regraded and soil imported to leave a level surface where originally the land had sloped in keeping with surrounding properties. The higher levels were taken as the basis of the new site and not picked up by the Assets and Planning Department. This has now been realised as a major mistake and should have been taken into account at the design stage.
- I do not understand how plots that are over 1m higher than the plans submitted can even be considered for approval even if you exclude the obvious mistakes that DCC have made when levelling the land (if you include that you have increased the levels by over 3m).
- The main issue is the height of the properties and always will be. When the school was demolished DCC decided to bring in top soil and level the land. This raised the levels on the site but probably made it look good to any potential buyer. This has been made a bigger issue by the fact that planning permission was granted and allowed to build up the land to an unacceptable level which should not have been allowed to happen. Had planning done their job correctly this would have been noticed but instead you are now making all the residents suffer because of the failings of your staff. Could someone explain why this was allowed to happen?
- The bungalow on plot 14 is now higher than my two storey house below it. The windows are higher than that of my daughters bedroom, family bathroom and ensuite creating major privacy issues.
- Overlooking of garden/patio and downstairs windows due to land being so high.
- Concerns at lack of retaining features now that work has begun – cannot understand why a retaining wall would be built after the additional weight of the building has been added.
- The fact that the wooden retaining wall has been revised and replaced with a masonry wall addresses the concerns that this land needs retaining and supporting to protect all subsequent land and property below.
- The plans refer to a 'hit and miss' fence – why isn't this explained in layman's terms? This shows a lack of respect.
- The idea of trees and fencing to resolve issues is an insult to residents. The trees and fence would compound the issue as nobody would be responsible for the upkeep and it would mean loss of light.

- 6 m high trees and a 1.8m fence between my property and the site is a cheap alternative to hide overall problem. Trees will be the responsibility of new owners and these could be removed in future leaving little or no screening for privacy. It would be my responsibility to monitor this but surely this is not something that I should have to deal with. These measures are being put in to make the development acceptable therefore their removal would make it unacceptable.
- The proposal to plant trees is a joke considering three trees were cut down behind our fence before work was carried out. We were told that this had been done as there would be no-one to take ownership of the trees. Again, we feel that this is an insult to resolve the issue.
- Quality of life would be affected due to being directly overlooked.
- Not enough distance from some of the houses to the bungalows to allow privacy especially into bedrooms regardless of where the windows are placed within the building.
- Concerns about the outcome of potential planning applications for extensions to own home.
- Drainage/flooding issues have still not been addressed.
- Drainage is a major concern. Past problems with flooding will be worse now the land has been raised and is sloping towards my property. In recent years we have spent a great deal of time and money on draining our garden due to surface water causing extensive damage. Since building work has started the problems are worse and it is assumed that the site levels are causing this.
- We feel that we have been badly let down by DCC and our County Councillors do not appear to have been taken seriously in voicing residents concerns. If they cannot get anywhere what chance do residents have? It feels like DCC just don't care. The land has been sold and they are not bothered because they are not living there, if they were I can assure you that planning permission as it stands would not have been granted.
- Causing significant levels of stress to residents.
- Concerns regarding health and safety issues.
- Concerns that this development would prevent future extensions being undertaken to existing properties.
- Devaluation of property prices – residents should be compensated if this is the case.
- When is anybody going to listen to the residents and resolve the issue by lowering the land level to what it should have been, then there would be no issues.
- Would you like to live in a property with all these on-going issues that directly affect your health and mental wellbeing which has been forced upon you by the fundamental errors of DCC.
- Residents feel that they have not been taken seriously or listened to.

A letter has been received from Kevan Jones (MP) stating that he has received further representations from residents who remain concerned about the way that Durham County Council have dealt with this issue. He comments that the application does not address the concerns that have been consistently raised by residents since July – which is that the level of the land was changed after the school was demolished. The land is now substantially different from the surrounding streets and he advises that for this reason he is writing to object to this application. The site is now substantially different from the surrounding streets and he advises that he objects to the application.

The above is not intended to list every point made and represents a summary of the comments received on this application. The full written text is available for inspection on the application file which can be viewed at <https://publicaccess.durham.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=P7ACJGGDKOB00>

APPLICANTS STATEMENT

30. This application was submitted following receipt of complaints from local residents during the construction stages on site of the previous fully approved application DM/17/01683/FPA. Investigations by the planning department revealed that despite the development having been built in accordance with the approved plans planning officers now had new concerns about the relationship between existing and proposed dwellings.
31. Whilst privacy distances had, on the whole been met, the ramifications of the change in levels upon privacy had not been fully accounted for. As a result, this amended application was agreed upon and submitted to resolve the officer and resident concerns.
32. This application replaces plots 14, 15 and 16 of the previous application with newly positioned and redesigned bungalows to new plots 14 and 15 thus reducing the scheme from 16 bungalows to 15 bungalows. The new bungalows for these plots are redesigned to have no rear facing windows towards the closest dwellings on Cromarty No's 89 to 92. The separation distances to these plot were also increased to in excess of 16m when the spatial requirements of the LA are 12m (blank elevation to habitable windows). For the avoidance of doubt the new bungalows will have NO windows facings 89 to 92 Cromarty except for a frosted bathroom window and the spatial standards are exceeded.
33. Separation distances to No's 86 & 87 Cromarty already exceed 21m and this remains (elevation to elevation).
34. Separation distances to Houses No's 80 to 85 Cromarty are also beyond the 21m requirement and these properties are not affected by the resubmission as they face properties of the original approval unchanged in this new application. Thus, new objections raised by these properties and others are to the previous approved scheme. Only properties from 85 to 92 Cromarty are affected by the new application.
35. In addition to the redesigned bungalows additional screening was included in the application to aid privacy and external amenity with fixed timber screens and boundary enclosures proposed and detailed on the drawings, these screens have also been gradually increased and refined at the request of the planning officers. Also, recently 6m high semi-mature tree planting band has been proposed to act as a further screen between the window lines.
36. We note for clarity and for the avoidance of doubt the required separation distances set by DCC and generally used nationally for privacy are: Habitable room to habitable room = 21 meters and Gable to Habitable room = 12 meters (blank gable or windows otherwise not to habitable rooms).
37. These distances set the requirement and standard for determining overlooking and privacy and not the subjective interpretation or perception of an objector. The objectors may state they are being overlooked but by the definition of the set standards they are not and the application is fully compliant with these separation distances.
38. The objectors' perception of lack of privacy and overlooking is purely that, a perception, and not an issue that could be stated as a fact. There must be a hard figure for compliance otherwise if it were left to only perceptions no new housing would ever be built.

39. Further current objections focus around level changes, drainage, foundation levels (buildings slipping), timber retaining structures, and overlooking to bedrooms.
40. Floor Levels of the previous approval were (plot 14 - 66.260) (plot 15 - 66.560) (plot 16 – 66.860). New levels are (plot 14 - 66.260) (plot 15 - 66.860). Much has been made about the developer raising the levels of the site excessively and unsafely. These levels are dictated by the levels of the access road (tied to existing road) and the falls dictated by highway design requirements. Then the need for level disabled access to the dwellings further controls the final finished floor levels.
41. We acknowledge that this does raise the rear of some the dwellings above existing levels but this is unavoidable when you are working to a sloping site. Other properties in the scheme are deeply cut into the site and a balance must be struck between the cut and fill exercise needed to plateau the site. We also note the site was already significantly raised in this corner and the existing topographical survey demonstrates this. Plot 14 sits over existing contours of 65.5 at the front and 65.00 at the rear therefore a 1.26m raise over existing levels at the worst point and not the 3m changed expressed by the objectors.
42. We note that the use of the proposed unilog retaining system was proposed to level and plateau the garden and amenity area to plot 14 and in no way secures the building. Foundations of the new buildings extend deeply into existing good ground and the bungalows are bounded by a masonry retaining walls, however to allay fears we propose this unilog system will be replaced with a masonry system further controlled under planning conditions. Concerns of the building slipping down the hill are simply unfounded and lack understanding of the technical facts and checks and balances in place.
43. Concerns of foundation and drainage design are further addressed in a statement submitted during the application and we note that there are no consultee objections to the drainage proposals.
44. It should also be noted that the objections are raised at a time when the construction work is still ongoing and in flux and a large amount of mounded earth is still to be removed from site and could be leading to misinterpretations of the finished levels.
45. Thus in conclusion far from ignoring the residents' concerns the applicant with Karbon Homes and DCC have sought this compromise in response and to assist the resident concerns. We note the original application attracted no objections and that a number of the current objectors are unaffected by the new amended application.

PLANNING CONSIDERATIONS AND ASSESSMENT

Background

46. As outlined in paragraph 2 of this report the application has been submitted due to concerns from residents following implementation of the previously approved development on the former school site. Particular concerns related to the height at which the bungalows were being erected (that is at a similar level as the first floor of the adjacent two storey properties). Residents complained that this resulted in direct overlooking and a loss of privacy which adversely affected their residential amenity. Following the receipt of several complaints from residents discussions took place between Officers, Karbon Homes and the development contractor to address the areas of concern. This has resulted in the submission of the current application which

as previously stated relates only relates to part of the site where three bungalows were to be erected..

47. Members will note that residents remain concerned about the impact of the revised plans on their residential amenity, in particular they are concerned about the separation distances between their properties and the proposed bungalows and the potential overlooking of their properties including bedroom, bathroom windows and gardens. They are also concerned about the stability of the site and flooding/surface water issues. Ideally they would like to see the site levels reduced.
48. The demolition of the school took place between February and May 2016. From photographic evidence it appears that levelling works took place as part of the demolition process however Officers do not have details of the previous levels when the site was occupied by the school. However, it is apparent that the site would always have overlooked the adjacent properties to some extent and that the adjacent properties were set at a lower level than the neighbouring school site, with the adjacent properties having terraced gardens to take into account the change in levels.
49. The planning application for the redevelopment of the site for 16 bungalows included a topographical survey which was prepared following the demolition of the school buildings. An Engineering layout was also submitted showing the existing and proposed levels. Cross sections were also provided showing sections through four parts of the site to demonstrate the relationship of the proposed properties with the existing. This information was available to view on the Council's website. No information was submitted showing the levels prior to the demolition of the school.
50. Thirty-nine properties surrounding the application site were consulted regarding the original application. No objections to the application were received. This indicated to Officers that residents did not have any concerns with regard to the proposal.
51. The details submitted with the original application indicated that the properties would be built at a higher level than the site following its levelling after the demolition of the school. The approved changes in levels were as follows –
 - Plot 14 – 1.1m increase
 - Plot 15 – 0.85m increase
 - Plot 16 – 0.86m increase
52. On receipt of residents' concerns regarding the height of the properties the site levels were checked and found to accord with the approved plans submitted by the applicant in support of their application.
53. During recent discussions neighbouring residents have indicated that they did not foresee any issues of overlooking occurring due to the application proposing bungalows. However, in making this assessment they were not aware, or did not take into account, that the site levels had changed following the demolition of the school or that further changes to the levels on the site would take place as part of the development. These changes were shown on the documentation submitted with the original application. The site sections showed the relationship between the existing and proposed properties and illustrated how the existing properties are cut into the hillside. These were available for residents to view as part of the planning application for the redevelopment of the site, however residents have stated that they were unable to interpret the submitted plans. Whilst this is understandable, it is unfortunate that the affected residents did not contact Planners at the consultation stage as Officers would have been able to explain the proposed changes in levels to them. However, in reality the proposed bungalows were always going to be set at a higher

level than the adjacent properties given that the adjacent houses are set down at a lower level than the site and are stepped down from the fence line.

54. On receipt of the current application Officers, Councillors Batey and Wood met with residents. Following which a further meeting was held with the applicant and Councillors to look at how residents' concerns could be addressed. At this meeting the applicant advised that they would contact residents individually to discuss their concerns however, it seems that this exercise has not been as extensive as suggested.

The Principle of the Development

55. The principle of residential development on the site has been established by the original consent for the erection of 16 bungalows on the larger site. The application which is now under consideration only relates to the south east corner of the original site in which the number of bungalows within this area would be reduced from three to two. Nevertheless, paragraph 11 of the NPPF which requires development to be determined in accordance with the most important policy contained within the development plan, is still relevant.
56. The most important policy for determining the application is Policy HP9 (Residential Design Criteria – General) of the Chester-le-Street District Local Plan. This policy is considered to be consistent with Part 12 of the NPPF which seeks to achieve well designed places. In this regard, it is considered the most important policy is consistent with the NPPF and is not out of date. Accordingly, paragraph 11 of the NPPF is not engaged.
57. Having regard to the requirements of Section 38(6) of the Planning and Compulsory Purchase Act 2004 the relevant Development Plan policies, relevant guidance and all other material planning considerations, including representations received, it is considered that the main planning issues in this instance relate to residential amenity, site stability and drainage.

Residential Amenity

58. The current application, while reducing the number of properties on this part of the site does not change the level at which the properties will be constructed, therefore these will be as outlined above. For clarity the bungalows will be built at a similar level to the first-floor level of the surrounding houses.
59. All new development, including new dwellings, will have some bearing on neighbouring properties and it is important to ensure that the impact does not reduce the level of amenity that the occupiers of new and existing dwellings could reasonably expect to enjoy. Applications for Planning Permission are assessed against policy HP9 (Residential Design Criteria). Criteria i) of this policy requires new development to relate well to the surrounding area, respect its predominant character, street pattern, setting and density, and avoid damage to the amenities of adjoining properties while criteria iii) requires new development to provide adequate privacy in the rooms, gardens and other outdoor areas of the proposed dwellings and adjacent properties.
60. This Policy is supported by Appendix I of the Local Plan which sets out a number of guidelines which are intended to ensure that there are adequate separation distances between dwellings. The guidelines are intended to help Officers to assess the impacts of new development on the privacy and amenity of existing residents. Such standards are commonly used by Local Planning Authorities and the specific distances quoted below are widely used by many Councils. It should be noted that the distances

contained within this appendix are intended to be indicative and should not be seen as prescriptive.

- Two storey development to two storey development (containing habitable room windows) – 21 metres back to back distance.
- Single storey development to single storey development (containing habitable room windows) – 15 metres back to back distance.
- Habitable room window (to both single and two storey buildings) and a gable elevation (including garages) with no windows to habitable rooms in that elevation – 12.5m.
- Where dwellings are offset, therefore not directly overlooking each other, the privacy distances may be reduced to reflect this.

61. As the floor levels of the bungalows will be at a similar level to the first floor level of the adjacent properties (84 – 92 Cromarty) this creates a situation which is similar to two storey development being proposed adjacent to two storey development on a flat site. As such Officers consider that assessment of the application should be made with reference to the privacy guidelines relating to two storey development facing two storey development, which means that there should be a minimum of 21 metres between habitable room windows and 12.5 metres between the existing unextended face of two storey properties and any blank gables proposed within the application site.

62. It should be noted that there are no windows to habitable rooms proposed within the elevation of plot 15 that face towards 92 Cromarty. There are no windows to habitable rooms within the elevation of the bungalow proposed on plot 14 facing towards 89/90 Cromarty however there are habitable room windows facing towards 85/86 Cromarty.

63. The submitted plans indicate the following privacy distances -

Plot	Proposed Distance	Required Distance	Difference between Proposed and required distance
92 Cromarty to Plot 15	16.36m	12.5m	3.86m greater
91 Cromarty	No property directly to rear		
90 Cromarty to Plot 14	16.7m	12.5m	4.2m greater
89 Cromarty to Plot 14	16.7m	12.5m	4.2m greater
88 Cromarty	No property directly to rear	N/A	
87 Cromarty	No property directly to rear	N/A	
86 Cromarty to Plot 14	21.785m	21m	0.785 greater
85 Cromarty to Plot 14	26.8m	21m	5.8m greater
84 Cromarty	No property directly to rear	N/A	

64. The table above demonstrates that all the privacy distances fully accord with Appendix I of the Chester Le Street Local Plan and in all cases exceed the indicative distances, in some instances to a significant degree. As such it is considered that the proposed bungalows would be sited at sufficient distance from the existing dwellings to ensure that they would not result in significant overlooking, loss of privacy or overbearing impact to the adjacent two storey properties. Indeed, in some cases it would have been possible for the properties to have been brought closer to the existing dwellings and still comply with the guidelines. For example, the southern elevations of plots 14

and 15 do not contain windows to habitable rooms therefore instead of these being approximately 16.3m from 89 to 92 Cromarty as proposed, this distance could be reduced to 12.5m. Similarly, the distance of 21.7m between the rear elevation of plot 14 and 84 Cromarty could be reduced to 21m. It should also be noted that the removal of the central bungalow of the three approved significantly reduces the impact of the proposed development on 91 Cromarty by removing the bungalow immediately to the rear thereby removing any direct overlooking. In addition to concerns regarding potential overlooking of bedrooms residents have expressed concern about the overlooking of bathroom windows. Bathrooms are not regarded as habitable rooms and are normally designed with obscured glazing in the interests of privacy.

65. Due to ongoing concerns expressed by residents in response to the current application the applicant has submitted revised plans to address concerns of overlooking occurring from the garden areas of the properties. With regard to plot 14 there will be a narrow path surrounding the property (approximately 1.3m in width) before the garden drops down by approximately 1.3m before stepping down again to a lower level. A 1.8m high hit and miss timber fence will be provided between the upper and lower garden areas which will screen the garden area of plot 14. Regarding plot 15 a path will be constructed around the side elevation of the property (facing towards Cromarty) screened by a 1.2m high trellis. The garden area will be stepped down by approximately 0.8m and the garden will slope down towards 92 Cromarty from which it will be separated by a 1.8m high fence. In addition, planting will be required by condition to further interrupt views. A resident has expressed concerns about the future maintenance of the landscaping. As this will be within the garden areas of the proposed new bungalows the responsibility for its maintenance will rest with the householders. A condition will ensure that this is retained in perpetuity. An objector is concerned that it will be their responsibility to monitor the retention of the landscaping/screening, however this is situated between the private gardens of the properties and will not be in public view therefore the Council would be reliant on neighbours to advise of any potential breach of the conditions.
66. While it should be noted that there will be an element of overlooking of the gardens of the existing properties due to the elevated location of the site, this situation is no different from existing two storey properties being able to look down into their neighbours gardens both from within the property and from in the gardens due to the fact that the existing gardens are terraced. In addition, the site was formerly occupied by a school and its associated playgrounds therefore the garden areas of the adjacent properties were not previously completely private.
67. The proposed development will undoubtedly change views of the site from the existing properties however a loss of view is not a material planning consideration. Officers are satisfied that the outlook from the existing properties would not be so materially affected as to warrant refusal of the application.
68. In order to ensure that the future privacy of residents is protected conditions are recommended to remove the Permitted Development Rights of the proposed dwellings and to require the boundary enclosures and screening to be erected prior to the occupation of the bungalows and retained in perpetuity.
69. As the privacy guidelines are met, and in many cases exceeded, and the proposal would not result in significant loss of privacy to neighbouring residents therefore the development is considered to comply with Policy HP9 and Appendix I and parts i) and iii) of the Chester le Street Local Plan.

Site stability

70. Concerns have been expressed by residents that bungalows may be likely to slip down the slope towards their houses due to the foundations being constructed on made up ground. The applicant has advised that the foundations have been designed to ensure that no pressure is placed on unmade ground and that the buildings are constructed into the existing strata. This has been confirmed by the Council's Building Control Officers who inspected the foundations on 28.06.18 and have advised that the foundations are in accordance with the Site Investigation and Structural Engineers details. The foundations are therefore considered to meet the technical requirements and structural warranty guidelines. Officers are therefore satisfied that the foundations have been designed and constructed to ensure that subsidence would not occur.
71. Residents expressed concerns through the consultation exercise regarding the log retaining structures proposed on the basis that these would not be strong enough to hold back the weight of the land and that over time the condition of these would deteriorate lessening their effectiveness. Due to these concerns the applicant has now proposed a masonry retaining wall details of which will be secured by condition.

Drainage

72. Residents have expressed concerns that the proposed development has resulted in surface water drainage and flooding problems to the south eastern corner of the application site.
73. Historically, the school buildings and playground were at a higher level than these properties and the school site sloped down to the property boundaries. Following the demolition of the school the site 5294 sqm of the site was undrained. The proposal for the 16 bungalows on the larger site indicates that 3868 sqm of the site will be drained as part of the development into the main surface water sewer. A high proportion of rain water from the roads, buildings, drives, patios and other hard surfacing will be drained. The surface water connects into the main sewer through an attenuation system which restricts the flow from the site during periods of heavy rain. When this system is in operation and the water is been restricted from leaving site it backs up into a series of holding tanks which are specifically designed to hold the water. The flow rates were designed by a Structural Engineer and comply with the Building Regulations 2010. This is a positive improvement to the drainage of the site.
74. Only the surface water from plots 14 and 15's rear gardens will run off to the south east, which is considerably less than previously and therefore represents a net benefit. It should be noted that the full on-site drainage system is not yet operational.
75. Detailed drainage drawings and calculations were submitted with the application and these were scrutinised by both the LLFA (Lead Local Flood Authority), in this case Durham County Council (DCC), the SUD (Sustainable Urban Drainage) department, in this case DCC again. These two departments check to ensure that the site is designed to be drained in accordance with the current regulations. As part of this process the Local Water Authority also reviews the application and makes comments. In addition, they confirm connection points and that the system is suitable for adoption along with not having a detrimental impact on the existing sewerage system.
76. Planning applications should not be used as a vehicle to address existing issues, such as drainage, but only deal with the impacts of their development. As such neither the original or the current application should be expected to address problems that occurred historically. However, it is noted from the above that the drainage to be installed on site results in a greater proportion of the site being drained than previously

therefore the impact of surface water run off should be less. Residents have reported that the drainage situation has worsened since development commenced on site. It should be noted that the on-site drainage system is not yet operational as the necessary connections have not been made.

Other Issues

77. The Highways Officer has commented that the proposal would result in the removal a two-space approved visitor parking layby which would result in parking problems for future residents. He has requested that a further single parking bay is provided. While the two parking bays that were shown as proposed adjacent to the site entrance are to be removed one of these will be repositioned between plots 14 and 15. While this reduces the visitor parking on site this is considered to be acceptable given that the number of dwellings within the overall development has been reduced.
78. Concerns regarding rubbish being blown off site and Health and Safety Regulations not being adhered to and devaluation of property prices are not material planning considerations.
79. A resident is concerned that the development will prevent extensions from being undertaken to the existing properties in Cromarty. The development will not prevent householders extending their properties but each proposal which requires planning permission would have to be assessed on its own merits at the relevant time. The properties in Cromarty benefit from Permitted Development Rights and therefore some extensions can be erected without requiring planning permission.
80. It should be noted that one of the objections to the amended plans was received from the resident most affected by the originally proposed central bungalow of the approved three which has since been deleted. The amended plans show that there will no longer be a dwelling situated to the rear of this property.
81. Residents unaffected by the current proposal have raised several concerns regarding the original proposal for the erection of the 16 bungalows on the site. These concerns are not relevant in the determination of the current application as planning permission already exists, but these will be dealt with separately by Officers. The allegations that the properties have been built closer to 75/76 Cromarty than shown on the approved plans has been checked and the bungalow on plot 10 is slightly further away from the adjacent properties than approved.

The Fall-Back Position

82. The application under consideration has been submitted in order to address the concerns that residents living adjacent to the south eastern corner of the site expressed with regard to the impact of the originally approved development on their amenity. It should be noted that the planning permission for the original scheme remains in place and if planning permission were to be refused the developer could legitimately construct the approved development in accordance with the existing planning permission. While it is apparent that residents remain concerned about the impact of the revised proposals on their amenity, Officers are satisfied that the revised plans address the previous amenity issues. The construction of the three originally approved bungalows would, in your Officers opinion, undoubtedly be a worse outcome for the surrounding residents than the implementation of the currently proposed application.

CONCLUSION

83. The application proposes amendments to the approved development to address the concerns raised by residents including completely removing the central bungalow, re-orientating the properties and changing the position of windows to principle rooms. During the course of the application further changes have been made to enhance the screening between the existing and proposed properties. Clarification has also been provided regarding drainage and site stability. In their comments residents may have given the impression that the amendments only relate to landscaping and screening however Officers have worked with the applicant to try to resolve neighbours concerns and have secured all of the above changes to the scheme.
84. The siting of the proposed bungalows fully complies with the guidelines contained within Appendix I of the Chester-le-Street Local Plan providing adequate separation distances between the existing and proposed properties to ensure that the proposal would not result in a loss of amenity to the residents of the adjacent properties in accordance with saved policy HP9. The landscaping scheme and screening will be secured by condition and will further interrupt intervening views. In terms of site stability, the foundations of the bungalows have been designed to take into account the ground conditions and sloping land and masonry retaining structures are proposed to retain the garden areas. Adequate drainage will be provided on site to deal with surface water from the proposed development. The proposal is therefore acceptable and in accordance with the NPPF and Chester-le-Street District Local Plan.

RECOMMENDATION

That the application be **APPROVED**, subject to the conditions detailed below:

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason: Required to be imposed pursuant to Section 91 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

2. The development hereby approved shall be carried out only in accordance with the following approved plans:

Plan Ref:	Date Submitted:
Proposed bungalow 1039-01	08.10.18
Proposed site plan 1039-02	05.12.18
Proposed engineers site plan 1039-03A	05.12.18
Boundary Enclosure Details 1039-04A	05.12.18
Proposed site sections (sheet 1) 1039-05	05.12.18
Proposed site sections (sheet 2) 1039-06	05.12.18
Proposed site block plan 1039-07	08.10.18
Site location plan 1:1250 1039-SLP	08.10.18

Reason: To define the consent and ensure that a satisfactory form of development is obtained in accordance with Policies HP9 of the Chester-le-Street District Local Plan.

3. No external construction works, works of demolition, deliveries, external running of plant and equipment shall take place other than between the hours of 0800 to 1800 on Monday to Friday and 0800 to 1300 on Saturday.

No internal works audible outside the site boundary shall take place on the site other than between the hours of 0800 to 1800 on Monday to Friday and 0800 to 1300 on Saturday.

No construction works or works of demolition whatsoever, including deliveries, external running of plant and equipment, internal works whether audible or not outside the site boundary, shall take place on Sundays, Public or Bank Holidays.

For the purposes of this condition, construction works are defined as: The carrying out of any building, civil engineering or engineering construction work involving the use of plant and machinery including hand tools.

Reason: To protect the reasonable expectations of residential amenity from surrounding dwellings as required by Policy HP9 of the Chester-le-Street Local Plan.

4. Prior to the occupation of the dwellings hereby approved the boundary treatments and screening relating to each specific plot shall be erected in accordance with the approved plans. The boundary treatments and screening shall remain in place in perpetuity.

Reason - To protect the residential amenity of the occupiers of neighbouring properties in accordance with Policy HP9 of the Chester-le-Street Local Plan.

5. Prior to the commencement of the development full details of the masonry retaining walls shall be submitted to and approved in writing by the Local Planning Authority. The retaining walls shall be constructed in accordance with the approved details prior to the occupation of the dwelling to which they relate and shall be retained in perpetuity.

Reason - To protect the residential amenity of the occupiers of neighbouring properties in accordance with Policy HP9 of the Chester-le-Street Local Plan.

6. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or in any Statutory Instrument revoking or re-enacting that Order with or without modification) no development falling within Classes A to H of Part 1, Class A of Part 2 and Classes A Part 14 of Schedule 2 of the said Order shall be carried out on the site without an application for planning permission having been first made to and approved in writing by the Local Planning Authority.

Reason: In order that the Local Planning Authority may exercise further control in this locality in the interest of the amenity of neighbouring residents and to comply with Policy HP9 of the Chester-le-Street Local Plan.

7. No development shall commence until a detailed landscaping scheme has been submitted to and approved in writing by the Local Planning Authority and the approved landscaping scheme shall thereafter be implemented on site.

Any submitted scheme must be shown to comply with legislation protecting nesting birds and roosting bats.

The landscape scheme shall include accurate plan based details of the following:

Trees, hedges and shrubs scheduled for retention.
Details of hard and soft landscaping including planting species, sizes, layout, densities, numbers.
Details of planting procedures or specification.
Finished topsoil levels and depths.
Details of temporary topsoil and subsoil storage provision.
Seeded or turf areas, habitat creation areas and details etc. Details of land and surface drainage.
The establishment maintenance regime, including watering, rabbit protection, tree stakes, guards etc.

The local planning authority shall be notified in advance of the start on site date and the completion date of all external works.

Trees, hedges and shrubs shall be retained in perpetuity and should any fail they shall be replaced with specimens of a similar size and species.

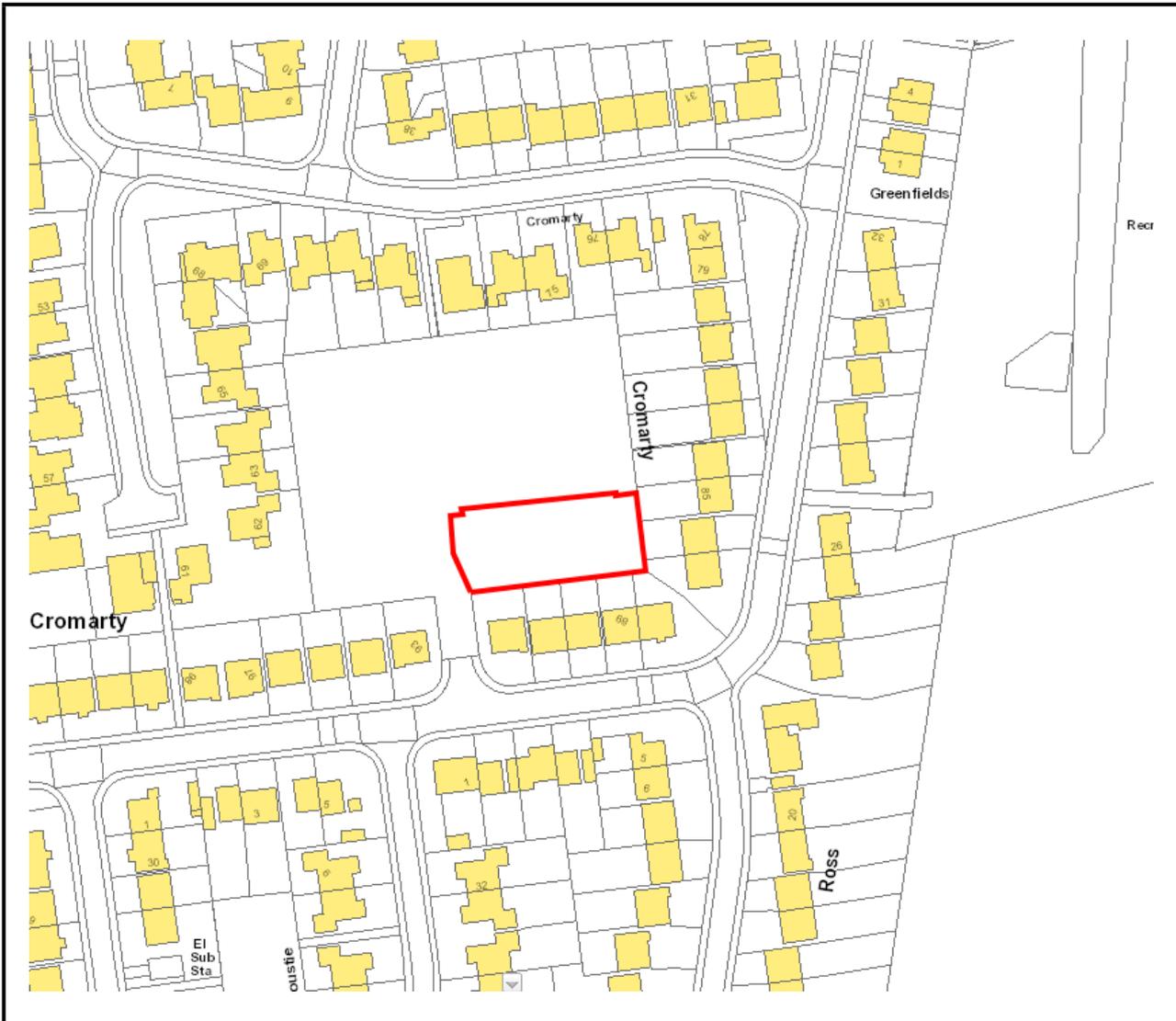
Reason: In the interests of the visual amenity of the area and to comply with Policy HP9 of Chester-le-Street Local Plan.

STATEMENT OF PROACTIVE ENGAGEMENT

The Local Planning Authority in arriving at its decision to refuse the application has, without prejudice to a fair and objective assessment of the proposals, issues raised, and representations received, sought to work with the applicant in a positive and proactive manner with the objective of delivering high quality sustainable development to improve the economic, social and environmental conditions of the area in accordance with the NPPF. However, the delivery has not been possible in this instance. (Statement in accordance with Article 35(2) of the Town and Country Planning (Development Management Procedure) (England) Order 2015.)

BACKGROUND PAPERS

The National Planning Policy Framework (2018)
National Planning Practice Guidance Notes
Chester-le-Street Local Plan 2003 (saved policies)
Statutory, internal and public consultation responses
Submitted forms, plans and supporting documents



Planning Services

2 bungalows to replace approved bungalows on plots 14, 15 and 16 within housing application DM/17/01683/FPA

Application Number - DM/18/03060/FPA

This map is based upon Ordnance Survey material with the permission of Ordnance Survey on behalf of Her Majesty's Stationary Office © Crown copyright.

Unauthorised reproduction infringes Crown copyright and may lead to prosecution or civil proceeding.

Durham County Council Licence No. 100022202 2005

Comments

Date 20.12.2018

Scale NTS