

The Ombudsman's final decision

Summary: Mrs X complains about the way the Council dealt with a neighbour's planning application. We will not investigate the complaint because it is unlikely we can add to the investigation already carried out by the Council and an investigation is unlikely to lead to a different outcome.

The complaint

1. The complainant, who I refer to as Mrs X, complains about the way the Council dealt with a neighbour's planning application and its decision to grant planning permission. She says her property is now more overlooked than before by the addition of new roof lights and a Juliet balcony.

The Ombudsman's role and powers

2. We investigate complaints of injustice caused by 'maladministration' and 'service failure'. I have used the word 'fault' to refer to these. We cannot question whether a council's decision is right or wrong simply because the complainant disagrees with it. We must consider whether there was fault in the way the decision was reached. (*Local Government Act 1974, section 34(3), as amended*)
3. We must also consider whether any fault has had an adverse impact on the person making the complaint. I refer to this as 'injustice'. We provide a free service but must use public money carefully. We may decide not to start or continue with an investigation if we believe:
 - it is unlikely we would find fault, or
 - the fault has not caused injustice to the person who complained, or
 - the injustice is not significant enough to justify our involvement, or
 - it is unlikely we could add to any previous investigation by the Council, or
 - it is unlikely further investigation will lead to a different outcome, or
 - we cannot achieve the outcome someone wants. (*Local Government Act 1974, section 24A(6), as amended*)

How I considered this complaint

4. In considering the complaint I spoke to Mrs X and reviewed the information she and the Council provided. I gave Mrs X the opportunity to comment on my draft decision.

What I found

5. In 2019 the Council received a planning application for the development of a property to the rear of Mrs X's home. Mrs X submitted her objections to it on the basis of overlooking and because she thought the supporting statement submitted by the applicant was misleading when it described her property as being "some distance away" when it was nearer than this phrase implied.
6. In the delegated report the case officer noted this phrase was unspecific but that nevertheless the distance between the site and the neighbouring properties was considered to be acceptable in terms of modern development. The report also considered the issue of overlooking and decided the introduction of roof lights did not make the overlooking to be any more harmful than that which currently existed from the first floor. The Council decided to grant permission.
7. After the decision had been made Mrs X wrote to town councillors repeating her concerns about the development but she did not make a formal complaint about the matter to the Council until September 2020 having seen work start at the site in July 2020.
8. The Council addressed her complaint under the two stages of its complaints procedure. It explained her objections had not been ignored but had been considered, as the delegated report showed. With regards to her concerns about overlooking from the roof lights, it said it was satisfied they would not allow for any significant views out and that due to the acute angle of view from the Juliet balcony, this would not cause any significant overlooking either.
9. At its second stage response, the Council noted the letter Mrs X had sent to her local ward councillors after the decision had already been made but explained that once a decision is made it can only be challenged through judicial review, as she had previously been advised. It said the issue of the distance from her property and the potential for overlooking had already been addressed and that in the professional opinion of officers the distances were acceptable and refusal of permission based on the impact on her property would not have been justifiable. It concluded the correct procedure had been followed and a justifiable decision reached.
10. Dissatisfied with the Council's response, Mrs X complained to us.

Assessment

11. Mrs X has raised the same issues with us as those already adequately addressed by the Council in its complaint responses. She says her property is 17m away and not "some distance away" but it is clear the position of her property and the impact of the proposed development upon it was considered when the Council determined the application. While I understand Mrs X is very disappointed with the decision, it is not our role to review the merits of it.
12. Mrs X says that an extension to the Juliet balcony has been started for which there is no planning permission. It is open to Mrs X to report this matter to the Council's Planning Enforcement Team so it can assess matters.
13. I note Mrs X says she and her partner were troubled by the use of a noisy compressor at the site for a month before it was moved but as this matter was resolved I do not consider an investigation about it is warranted.

Final decision

14. We will not investigate this complaint. This is because it is unlikely we can add to the investigation already carried out by the Council and an investigation is unlikely to lead to a different outcome.

Investigator's decision on behalf of the Ombudsman