

The Ombudsman's final decision

Summary: We will not investigate how the Council has dealt with the complainant's concerns about an anaerobic digester and a pig farm. We are unlikely to find there has been fault by the Council.

The complaint

1. The complainant, who I refer to here as Mr B, has complained the Council has failed to deal with planning breaches at an anaerobic digester near his home. He also says it has not addressed nuisance from a nearby pig farm.

The Ombudsman's role and powers

2. We investigate complaints about 'maladministration' and 'service failure', which we call 'fault'. We must also consider whether any fault has had an adverse effect on the person making the complaint, which we call 'injustice'. We provide a free service, but must use public money carefully. We may decide not to start an investigation if the tests set out in our Assessment Code are not met. (*Local Government Act 1974, section 24A(6), as amended*)
3. We do not provide an appeal against a council's decision and cannot question whether a 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 that is likely to have affected the outcome. (*Local Government Act 1974, section 34(3), as amended*)

How I considered this complaint

4. I considered information provided by Mr B. I also considered information provided by the Council, which included its responses to Mr B's complaints and a summary of the current planning enforcement position, and our Assessment Code.

My assessment

5. The Council has not ignored Mr B's concerns about the anaerobic digester. It has taken enforcement action when it considered this was necessary and is satisfied there are no current breaches of planning permission which require action.
6. The Council has also considered if the pig farm is causing a statutory nuisance. However, it has decided this is not the case and so it cannot take any action.

Final decision

We will not investigate Mr's B complaint because we are unlikely to find there has been fault by the Council in how it has considered and responded to Mr B's concerns.

Investigator's decision on behalf of the Ombudsman