

**Complaint reference:**  
15 012 485

**Complaint against:**  
East Devon District Council

## **The Ombudsman's final decision**

Summary: There was no fault in the Council's decision not to take formal enforcement action against breaches of planning control at a neighbouring property.

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## **The complaint**

1. Mr X says the Council has not taken enforcement action against breaches of planning control at a neighbouring property.

## **The Ombudsman's role and powers**

2. The Ombudsman investigates complaints about 'maladministration' and 'service failure'. In this statement, I have used the word fault to refer to these. She must also consider whether any fault has had an adverse impact on the person making the complaint. I refer to this as 'injustice'. If there has been fault which has caused an injustice, she may suggest a remedy. (*Local Government Act 1974, sections 26(1) and 26A(1)*)

## **How I considered this complaint**

3. I considered the complaint and correspondence sent to the Ombudsman by Mr X and the Council. I discussed matters with Mr X on the telephone. I sent a draft decision statement to Mr X and the Council. I considered the comments made by both parties in reply.

## **What I found**

4. Mr X is unhappy because the Council has not taken enforcement action against various alleged breaches of planning control by his neighbour. Mr X says, for instance, that his neighbour obtained planning permission for the construction of an annex but has instead constructed a building equivalent to that of a three bedroom house. Mr X says the Council asked his neighbour to submit a planning application to regularise the areas of unauthorised development. But his neighbour withdrew the application in the face of objections from neighbouring properties and has not submitted a new application. Mr X queries why the Council has not done anything since withdrawal of the application.
5. Mr X alleges collusion between the Council and his neighbour because it appears the Council's planning officers gave advice to his neighbour which assured his neighbour that he could proceed with the development without having to apply for further planning permission.

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6. The Council told Mr X it did not consider the identified breaches of planning control had caused significant harm to warrant formal enforcement action. It said it would look again at the expedience of enforcement action when the development is complete. Mr X says this approach may limit what the Council can do in future.
  7. The Council's enforcement officers explained why they took an informal approach to enforcement action when they responded to Mr X's queries. This was followed up in the Council's complaint responses to Mr X.

### **Enforcement**

8. The Council has discretion to take enforcement action. It may issue an enforcement notice where it appears there has been a breach of planning control; and that it is expedient to issue it, having regard to the provisions of the development plan and other material considerations (*The Town and Country Planning Act 1990, section 172(1)*)
9. Paragraph 207 of the National Planning Policy Framework says enforcement action is discretionary and local authorities should act proportionately in responding to suspected breaches of planning control.

### **Finding**

10. I do not find fault with the council's approach to enforcement action in this case. It was for the Council to investigate the alleged breaches of planning control and then determine whether it was expedient to take action. Here, I am satisfied the Council investigated the breaches of planning control Mr X brought to its attention before it made decisions on whether it was expedient to take formal action on the individual matters. I recognise that Mr X is disappointed with the Council's decisions and disagrees with officer's conclusions but this disagreement does not lead me to conclude there was fault in the process leading to the Council's decisions.

### **Final decision**

11. I have closed this complaint because I do not find fault by the Council.

### **Investigator's decision on behalf of the Ombudsman**