

08 May 2018

Complaint reference:
17 020 205

Complaint against:
East Devon District Council

The Ombudsman's final decision

Summary: Mr X complains about the grant of planning permission for a holiday home near his house. The Ombudsman will not investigate this complaint because there is no evidence of fault by the Council.

The complaint

1. Mr X complains about the grant of planning permission for a holiday home near his house.

The Ombudsman's role and powers

2. We investigate complaints about 'maladministration' and 'service failure'. In this statement, I have used the word 'fault' to refer to these. 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. (*Local Government Act 1974, section 24A(6), as amended*)

How I considered this complaint

3. I have considered the complainant's comments and the Council's comments and Mr X has commented on the draft decision.

What I found

4. A planning application for a proposed change of use of a home office to holiday accommodation was made in November 2017. No objections were made by Mr X.
5. The Planning Officer noted that the original office had been granted (on appeal) in 2012. The building was increased in size in 2016.
6. The Planning Officer concluded that the new use would not lead to a loss of amenity to neighbours and was acceptable in principle.
7. Mr X says that there is a restrictive covenant on the land and the Council should have refused planning permission for this reason.
8. However, the Council states;
9. *Ultimately, a restrictive covenant arises from a private contractual agreement between respective landowners. There is no Government involvement in this.... the fact that there is a restrictive covenant is no bar to the grant of planning permission. Whilst I can understand your frustration, it is the case that the*

existence of restrictive covenants is not a material planning consideration and permission could not have been refused on that basis.

10. I am satisfied that there is no fault in the Council's view that a covenant is not a ground for planning permission refusal.

Final decision

11. The Ombudsman will not investigate this complaint. This is because there is no evidence of fault by the Council.

Investigator's decision on behalf of the Ombudsman