

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

Summary: We will not investigate Mr X's complaint about the Council's handling of a planning application for a development near his home. There is not enough evidence of fault to justify our involvement. We also cannot achieve the outcome the complainant wants.

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## **The complaint**

1. Mr X complains the Council has acted with bias towards the applicant when it granted planning permission for a development near his home. He believes the Council has ignored the long and controversial history of the development site. He complains the Council has not given reasons why it has approved access to the development site via an unsuitable road. Mr X says the contentious nature of the development has been the source of worry to him for a number of years. He wants the Council to rescind access approved use of the road where his property is located.

## **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 impact on the person making the complaint, which we call 'injustice'. We provide a free service, but must use public money carefully. We do not start or continue an investigation if we decide:
  - there is not enough evidence of fault to justify investigating, or
  - we cannot achieve the outcome someone wants, or
  - there is no worthwhile outcome achievable by our investigation. (Local Government Act 1974, section 24A(6), as amended, section 34(B))
3. We consider whether there was fault in the way an organisation made its decision. If there was no fault in how the organisation made its decision, we cannot question the outcome. (Local Government Act 1974, section 34(3), as amended)

## **How I considered this complaint**

4. I considered information provided by the complainant and the Ombudsman's Assessment Code.

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## **My assessment**

5. The Council has explained to Mr X that access to the development site from the road where his home is located is temporary during the construction phase on the development site. The Council has confirmed this is in accordance with the planning permission it granted for the development which prevents permanent access use of the road when construction is completed. There is no evidence of fault in the Council's handling of Mr X's concerns to justify our involvement.
6. When a council receives a planning application it must look at the development plan and material planning considerations to decide if the proposal is acceptable. Material considerations relate to the use and development of the land in the public interest and includes matters such as the impact on neighbouring properties and the relevant planning policies. It is for the decision maker to decide the weight to be given to any material considerations in determining a planning application.
7. We do not act as an appeal body for planning decisions. We have no powers to replace a decision the Council has properly made, nor can we compel the Council to act by for example rescinding part of the planning permission it has already granted. Instead, we consider if there was any fault with how the decision was made.
8. In this case, I am satisfied the Council properly assessed the acceptability of the development, including the impact on neighbouring properties and the area, before granting planning permission. The Planning Officer's report referred to Mr X's objections and those from other residents. It addressed the concerns raised.
9. We will not investigate this complaint. This is because it is the Council's role as local planning authority, to reach a judgement about whether a development is acceptable after consideration of local and national planning policies, comments from statutory consultees and objections/representations from people affected by the decision.

## **Final decision**

10. We will not investigate Mr X's complaint because there is not enough evidence of fault to justify our involvement and we cannot achieve the outcome he wants.

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