

The Ombudsman's final decision

Summary: We will not investigate this complaint about planning advice as there is insufficient evidence of fault by the Council.

The complaint

1. Ms X complains that the Council failed to fully advise her about the most appropriate way to obtain a change of use planning permission for her property. She says that this ultimately cost her more in planning fees.

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
- any fault has not caused injustice to the person who complained, or
- any injustice is not significant enough to justify our involvement.

(Local Government Act 1974, section 24A(6), as amended, section 34(B))

How I considered this complaint

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

My assessment

5. Ms X says that she had previously obtained a change of use of her property from residential use to retail use. She now wished to revert it back to residential use. She says that she contacted the Council which provided her with a change of use planning application form. She says that this planning application was refused as it would negatively affect the environment. She employed a planning consultant who suggested she apply for Prior approval planning permission. She says the Council should have told her of this method when she first asked.
6. The Council says it has no record of any formal request for advice from Ms X. It says that the process is not straight forward and depends on the circumstances

and details of each case. The Council says that the impact on the environment would not affect a Prior Notification Process.

7. In the absence of any record of the original "advice" the Ombudsman could not uphold this complaint against the Council. Further, the failure to provide detailed free advice at the beginning of a planning application process is not fault by the Council. Paid advice is available (as are Planning Consultants) where the planning application is not straight forward (as in this case).
8. I do consider that there is insufficient evidence of fault by the Council to warrant investigation.

Final decision

9. We will not investigate Ms X's complaint because there is insufficient evidence of fault by the Council.

Investigator's decision on behalf of the Ombudsman