

Complaint reference:
17 013 962

Complaint against:
London Borough of Croydon

The Ombudsman's draft decision

Summary: Mr x complains the Council did not take residents objections into account when it approved a planning application close to his home. The Ombudsman does not intend to investigate this complaint as it is unlikely we will find fault in the Council's actions and we cannot achieve what he wants.

The complaint

1. Mr X is the secretary of a road association which collects a road levy from frontagers to meet the cost for maintaining a private road. A developer applied for planning permission to demolish a house on the road and replace it with a three-storey building made up of seven two- bedroom flats with associated parking.
2. The Council told residents it had received the application. Many, including mr X objected to the proposed development saying it would be overbearing and out of character for the area.
3. The Council failed to decide on the application in time so the developer appealed to the Planning Inspector.
4. The Planning Inspector has access to all the information about the application, including the resident's objections. After visiting the site, the Inspector decided the proposal would not harm the character and appearance of the area. However, because it was not accessible and inclusive for all he dismissed the appeal.
5. The developer put in a new application for a three-storey building with three two-bedroom flats and two three-bedroom flats. Again, Mr X and other residents objected for the same reasons. The Council refused the application saying the proposal would be out of keeping with the character of the area due to its siting, scale and design. It also said the development would result in sub-standard accommodation with a poor outlook and cramped layout.
6. The developer put in a third application. This time for a two-storey building comprising seven two-bedroom flats. The local residents objected for the same reasons.
7. The case officer wrote a report for the Council. This included a summary of the objections it had received for the new scheme. This noted the design and layout of this proposal was identical to the first application, which the Planning Inspector had previously decided was acceptable. The Council granted planning permission.

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Assessment

8. Mr X says the Council and the Planning Inspectorate have ignored resident's objections. However, local opposition or support for a proposal is not in itself a ground for refusing or granting planning permission, unless is it founded on valid material planning reasons.
9. All decisions on planning applications must be made according to the development plan, unless material considerations show otherwise. Material considerations relate to the use and development of land in the public interest. They are not defined in law and can be wide ranging. They include (but are not limited to):
 - Local, national and strategic planning policies
 - Case law
 - Design and visual appearance
 - Density; and
 - Previous appeal decisions and planning inquiry reports
10. In assessing material considerations, the weight to be given to any factor is for the Council to decide, provided it acts according to the law. There is no third party right of appeal for planning decisions. The Ombudsman cannot and does not perform this role. The Ombudsman's task is to investigate complaints about a Council's administrative actions. He has no power to question the merits of planning decisions which have not been affected by any administrative fault, even though they may be disagreed with.
11. In this case each application was publicised and a summary of the objections received was included in the case officer's report. The Planning Inspectorate is not within the Ombudsman's jurisdiction so we cannot comment on his appeal decision. That decision is however a material planning consideration which the Council rightly considered as part of the final planning application. The weight given to the Inspector's decision is for the Council to decide.
12. I understands Mr X wants the Ombudsman to instruct the Council to share the money it received from the Community Infrastructure Levy payment for the approved application with the road association. However this is not something which the Ombudsman can achieve for him.

Draft decision

13. Subject to further comments by Mr X I do not intend to investigate this complaint as it is unlikely we will find fault in the Council's actions and we cannot achieve what Mr X wants.

Investigator's draft decision on behalf of the Ombudsman