

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

Summary: The Ombudsman will not investigate Miss X's complaint about the Council's handling of her application for a dropped kerb. The Council has agreed to reassess Miss X's application and this provides a suitable remedy for the complaint.

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## **The complaint**

1. The complainant, whom I shall refer to as Miss X, complains the Council did not properly assess her application for a dropped kerb.

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

2. We investigate complaints of injustice caused by 'maladministration' and 'service failure'. I have used the word 'fault' to refer to these. We cannot question whether a council's decision is right or wrong simply because the complainant disagrees with it. We must consider whether there was fault in the way the decision was reached. (*Local Government Act 1974, section 34(3), as amended*)
3. We provide a free service, but must use public money carefully. We may decide not to start or continue with an investigation if we are satisfied with the actions a council has taken or proposes to take. (*Local Government Act 1974, section 24A(7), as amended*)

## **How I considered this complaint**

4. I reviewed the details of Miss X's complaint, made enquiries of the Council and considered its response. I shared my draft decision with Miss X and discussed the case with her.

## **What I found**

5. Miss X applied for a dropped in July 2017. The Council visited her property but decided it was too close to a junction to qualify for a dropped kerb. It wrote to Miss X with its decision in August 2017 and Miss X complained in September. She felt the Council had looked only at the proximity of the proposed dropped kerb to the junction and had not properly considered site conditions as its policy suggests it should.
6. The Council did not uphold Miss X's complaint. It explained that while it had not completed a formal safety review it had properly considered her application and remained of the view that a dropped kerb should not be allowed on safety grounds.

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7. As part of my enquiries to the Council I asked if it would be willing to reassess Miss X's application and carry out a formal safety review. The Council has agreed to this proposal and I consider this provides a suitable resolution to the complaint. The Council is best placed to decide the application and where it can show it has followed the proper procedure in reaching a decision the decision itself is not open to criticism by the Ombudsman.

### **Agreed action**

8. The Council has agreed to reassess Miss X's application for a dropped kerb. It intends to complete the reassessment before the end of April 2018 and will write to Miss X with the outcome.

### **Final decision**

9. The Ombudsman will not investigate this complaint. This is because the Council's agreement to reassess the application provides a suitable remedy for the complaint.

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