

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

Summary: Mr X complained about the Council's decision to approve development on land near his home. We ended our investigation, because it was brought to us outside our 12-month time limit.

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## **The complaint**

1. Mr X complains the Council approved a planning application that made it more difficult for him to manoeuvre his car in and out of his parking space.

## **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, or
  - the injustice is not significant enough to justify our involvement.

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

3. We cannot investigate late complaints unless we decide there are good reasons. Late complaints are when someone takes more than 12 months to complain to us about something a council has done. *(Local Government Act 1974, sections 26B and 34D, as amended)*

## **How I considered this complaint**

4. I read the complaint and discussed it with Mr X. I read the Council's response to the complaint and considered documents from its planning files, including plans showing the access road to the new development.
5. I gave the Council and Mr X an opportunity to comment on a draft of this decision and took account of the comments I received.

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## What I found

### Planning law and guidance

6. Councils should approve planning applications that accord with policies in the local development plan, unless other material planning considerations indicate they should not.
7. Planning considerations include things like:
  - access to the highway;
  - protection of ecological and heritage assets; and
  - the impact on neighbouring amenity.
8. Planning considerations do not include things like:
  - views over another's land;
  - the impact of development on property value; and
  - private rights and interests in land.
9. Planning decisions can be for 'full' applications, where all or most details needed to make a decision are provided by the applicant. On larger developments, applicants often submit 'outline' applications, with plans that give an indication of what is proposed to be built, and include some details, usually including details of access to the highway. An outline approval can be followed by a 'reserved matters' application, which will provide all or most of the details needed to make a decision.
10. Councils can approve applications subject to planning conditions, which can require further details needed to make the development acceptable in planning terms.

### What happened

11. In 2009 the Council approved an outline planning permission for a development near Mr X's home. This approved the principal of the development and some other matters, including some highway access details.
12. In 2014 the Council approved a reserved matters application. Mr X objected to this application and spoke at the Council's planning meeting. He raised concerns about highway safety and access to his parking space. The application was approved.
13. Mr X tells me that, since development began, he has managed to get some changes that improve his situation. His landlord has agreed to widen his access gates, which makes it easier to drive in and out of his parking space. New signs have also helped visitors find his home, which is now hidden behind the new development.

### My findings

14. The Ombudsman's powers are subject to time limits. We do not normally investigate matters unless they are brought to our attention within 12 months from when events occurred or when the complainant could have known about them. We have discretion to go back beyond this limit but would need a good reason to do so.
15. We should not investigate late complaints or complaints that relate to matters that occurred long ago, unless:

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- we are confident that there is a realistic prospect of reaching a sound, fair, and meaningful decision; and
  - we are satisfied that the complainant could not reasonably be expected to have complained sooner.
16. Mr X could have come to us sooner and there is no good reason for me to use my discretion to investigate this late complaint. In any event, having spoken with him and read the complaint documents, I think it is unlikely we would find fault or a significant injustice for which we could recommend a remedy.
  17. Mr X was aware of the issues that caused him a problem, in 2014. Since then, he has by his own efforts and negotiations, gone some way to resolving the problem he complains of. In these circumstances, it is unlikely that further investigation would achieve a meaningful outcome.
  18. For these reasons, I should not investigate this complaint.

### **Final decision**

19. I have ended my investigation. This is because the complaint was brought to us late and, for the reasons given in the paragraphs above, I decided not to use my discretion to investigate it.

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