

The Ombudsman's final decision:

The Council granted planning permission for an extension to the house next door to Mr and Mrs L. I will not investigate the complaint as the Ombudsman cannot look at the merits of Council decisions where there is no evidence of fault in the way the decision was made.

The complaint

1. Mr and Mrs L complain the Council has granted planning permission to extend the house next door to them. Mr and Mrs L say the Council ignored their concerns of overlooking, loss of privacy and light, impact on the street environment and impact on the value of their property.
2. Mr and Mrs L also complain the Council delayed in handling their complaint.

The Ombudsman's role and powers

3. The Ombudsman investigates complaints of injustice caused by maladministration or service failure. In this statement, I have used the word fault to refer to these. She cannot question whether a council's decision is right or wrong simply because the complainant disagrees with it. She must consider whether there was fault in the way the decision was reached. (*Local Government Act 1974, section 34(3)*)
4. The Ombudsman must use public money carefully. She may decide not to start or continue with an investigation if she believes:
 - it is unlikely she would find fault; or
 - the fault has not caused injustice to the person who complained; or
 - the injustice is not significant enough to justify the cost of her involvement.

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

How I considered this complaint

5. I have considered:
 - information provided by Mr and Mrs L,
 - planning application documents on the Council website.

What I found

Background

6. In November 2010, Mr and Mrs L's neighbours put in a planning application to significantly extend their property from a two bedroom bungalow to a three storey

five bedroom property. The third floor would be concealed within the roof slope. Little of the original bungalow would remain and the footprint of the property considerably extended.

7. The houses on either side of the bungalow are both two storey properties.
8. On 30 November 2010, Mr and Mrs L filed objections to the planning application. They objected based on its size, visual impact, proximity, lack of compliance with the local plan, overshadowing and loss of privacy / light.
9. Amendments were made to the application to take into account the objections.
10. The Council says the plans were changed three times and Mr and Mrs L consulted each time.
11. A Council Officer visited the site on 10 January 2011. The Officer noted amendments from the original proposal including:
 - hiping of the roof to reduce impact on neighbouring properties,
 - the front elevation was no longer to extend forwards of the original front wall of the bungalow,
 - reduction in depth of the two storey rear element to ensure it did not intrude into the 45 degree zone of the habitable room windows of neighbouring properties,
 - removal of a proposed conservatory from the plans.
12. The Officer's report shows the Officer considered:
 - the extended footprint and spacing with neighbouring properties,
 - the visual appearance of the streetscene,
 - the objections received by Mr and Mrs L,
 - the impact of overshadowing by extending upwards.
13. While the application to extend upwards would significantly increase overshadowing, the Officer decided this would: *'simply introduce a 2-2.5 storey dwelling into a gap between existing 2 storey dwellings which have a similar overshadowing impact on their own neighbours'*. The Officer decided the impact of the extension on Mr and Mrs L's property, with the amendments, was *'acceptable'*
14. The Council granted planning permission on 19 October 2011.
15. The planning decision required all side windows facing towards Mr and Mrs L's home be obscure glazed and placed restrictions on the placement of the window in the room within the roof.
16. Discussion in the complaint correspondence shows the Council's local plan is not prescriptive about separation distances or what is an acceptable appearance or impact on neighbours.

Analysis

17. A Council can only consider 'material planning considerations' when looking at objections. These include:
 - Loss of light or overshadowing
 - Overlooking/loss of privacy
 - Visual amenity (but not loss of private view)

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18. The Council cannot consider matters which are sometimes raised but are not normally planning considerations such as:
- The perceived loss of property value
 - The loss of a view
19. The Ombudsman cannot question whether a council's decision is right or wrong simply because the complainant disagrees with it. She must consider whether there was fault in the way the decision was reached. (*Local Government Act 1974, section 34(3)*)
20. The impact of the extension on Mr and Mrs L's property and privacy is set out in the Officer's report and site visit notes. It is clear the Council has had regard to proximity, overlooking, privacy, visual appearance and the objections received. The fact plans were changed is also evidence Mr and Mrs L's objections were properly considered.

Final decision

21. I have seen no evidence of fault in the way the Council considered the planning application. Therefore I have decided not to investigate this complaint.
22. I will also not investigate the alleged delay in the complaints process. The effect on Mr and Mrs L of any delay in the complaint process is not enough on its own to justify the cost of an Ombudsman investigation.

Investigator's final decision on behalf of the Ombudsman.