

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

The Council did not act with administrative fault in deciding to approve Mr Z's neighbour's manege lights. I have not investigated the light nuisance investigation as this is ongoing and could provide a limited remedy, and it was not part of the original complaint.

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### **The complaint**

1. Mr Z complained that Wyre Forest District Council reached a flawed decision to approve his neighbour's retrospective planning application for manege floodlights.
2. Mr Z said he suffers due to the light that reflects off mirrors which were erected without permission, beaming into his home.

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

3. The Ombudsman's role is to consider complaints of service failure and maladministration causing injustice.

### **How I considered this complaint**

4. I have considered the complaint and the documents provided by Mr Z and discussed the issues with him. I have considered the complaint correspondence with the Council and publicly available planning records.

### **What I found**

#### **What happened**

5. Mr Z lives next to former farm premises that were given permission to have an equestrian centre in 2001. A condition of the permission then was that there would be no floodlights without Council permission.
6. Mr Z's neighbour, N, constructed a manege and car park. N also put up mirrors at the side of the manege and later put up floodlights. Mr Z notified the Council. N applied for the planning condition described above to be varied and for floodlights to be allowed in November 2011. Mrs Z objected and also explained the impact of the mirrors and lights on their enjoyment of their home.
7. The application was considered by the planning committee in April 2012. Mr Z suggested members view the floodlights from his home. Members deferred a decision to do so. Mr Z was given short notice of the visit which clashed with a planned holiday. He arranged for a third party to give access to members.
8. In June Mr Z spoke to members again. Members decided to remove the condition prohibiting the lights. They considered a report by planning officers saying why the mirrors were permitted development and that environmental officers were not concerned about light nuisance having considered a light survey N had submitted.

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9. Mr Z complained that members had not carried out a reasonable site visit to his home in his absence. In particular, members took into account irrelevant remarks his key holder had made. The development manager, officer A said how a site visit was arranged, that here it occurred in late evening (around 10pm) and that the key purpose was for members to appreciate the site. He said the Council could not defer a decision until winter as N could have appealed the delay. He said members debated the application before narrowly approving it. He said that although the originally a condition prohibited floodlights N could apply to remove it and the Council would have to consider an application on its merits. Here officers considered the floodlights caused no harm, the issue was the position of the mirrors which the Council could not control. He hoped a compromise about the position of the mirrors could be achieved.
  10. Mr Z replied that he remained dissatisfied as the site visit had not occurred when it was fully dark, and that it would have been reasonable to delay a decision until later in the year. In August the chief executive said he did not consider officer A's response unreasonable. The visit by members had occurred when it was dark.
  11. Mr Z provided me with photographs showing the glare of the lights from the mirrors which faced his back garden. He said he had recently contacted the Council's environmental health team as he considered he was suffering from light nuisance. An officer had visited. He said N had planted conifers on the boundary with the bottom of his garden intending them to grow tall and obscure the glare.

#### **What should have happened**

12. A planning applicant can appeal to the planning inspector if the Council does not give a decision on a planning application usually within eight weeks.
13. Permitted development, where no planning permission is required, can include walls fences and other means of enclosure, and the materials used are not controlled.

#### **Analysis of fault and injustice**

14. Members considered the impact on Mr Z's amenity by visiting and hearing Mr Z's views. They had regard to the professional views of planning and environmental officers. They required a condition limiting the hours of operation (use of the manege lights). The Council could not justifiably have delayed a decision. I consider the Council did not with administrative fault in reaching its decision.
15. Mr Z's photographs show the glare coming from the mirrors towards his house. But Mr Z can complain if N uses the manege outside the operating hours. N can plant conifers, and the Council cannot act unless these breach high hedge legislation provisions. Mr Z has an ongoing light nuisance investigation, which could result in N being asked to abate nuisance. The penalty for failing to do so however is limited to a fine. Mr Z is suffering a limited injustice, but this is primarily caused by N using his permitted development rights.

#### **Decision**

16. The Council did not act with administrative fault in deciding to approve Mr Z's neighbour's manege lights. I have not investigated the light nuisance investigation as this is ongoing and could provide a limited remedy, and it was not part of the original complaint.