

The Ombudsman's final decision

Summary: Mr X complains about the Council's decision to approve a planning application for a building in the grounds of a local school in 2015. The Ombudsman will not investigate this complaint as it too late. We are unlikely to find fault in the Council's actions and do not consider that Mr X has suffered a significant personal injustice.

The complaint

1. Mr X complains about the Council's decision to approve a planning application for a building in the grounds of a local school in 2015. He says the Council failed to consider all information including a report on the application prepared by the residents' planning consultant. Mr X wants the faults in the planning process to be acknowledged and corrected.

The Ombudsman's role and powers

2. The Local Government Act 1974 sets out our powers but also imposes restrictions on what we can investigate.
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*)
4. 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
 - the injustice is not significant enough to justify our involvement
 - we cannot achieve the outcome someone wants

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

How I considered this complaint

5. I considered all the information provided by Mr X, including his comments on the draft version of this decision. I also considered information available on the Council's website.

What I found

6. In 2015 a school, in the area where Mr X lives, demolished a building in its grounds and began to construct a replacement. Residents became concerned and reported a possible breach of planning control.
7. The Council visited the site. It discussed the matter with the school and encouraged it to put in a retrospective planning application.
8. In October 2015, the Council received a retrospective planning application for the demolition of the old hall and rebuilding of a multifunctional examination and lecture hall with recreational facilities within. And for the erection of perimeter fencing.
9. The Council consulted local residents about the application and many responded. A group of residents who objected to the application engaged a planning consultant to write a report on the proposal. This was submitted to the Council as an objection.
10. A planning officer wrote a report for the planning committee. This summarised the objections from residents, including the report it received. Reference to the use of the new building as a public mosque featured highly among the objections. The report fully considered the issues raised. The officer specifically addressed the concern about the proposed use of the building. The school confirmed the building would not be used as a public mosque.
11. The case officer report also considers concerns which included, but were not confined to:
 - development in the green belt
 - lack of highway infrastructure
 - lack of Ofsted involvement in the school
 - excessive size of the building
 - impact on highway safety
 - possible light pollution
 - nature of preachers at fundraising events.
12. After considering the application and the objections, including the report from the resident's planning agent, the Committee approved the application.

Assessment

13. The Ombudsman cannot usually consider complaints if a person has left it more than 12 months since knowing about the problem. Mr X was aware the Council granted planning permission in March 2016. He says he did not complain to the Council or the Ombudsman at the time, because he was only aware of the judicial review process for planning decisions.
14. I have considered whether to apply my discretion and investigate this complaint even though it is late. Mr X says he was unaware of the Ombudsman. However, he did not complain to the Council until September 2018, about the consideration of the planning application in 2016. The 12 month period runs from the time the complainant became aware of the problem, not when they decide to complain to the Council.

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15. Mr X says the Council failed to consider the report submitted by the agent engaged by residents. But it is clear from the case officer's report that the Council did consider the objections. It is not for the Ombudsman to consider if a council attached the correct weight to any particular facet of an application. It is a matter for the Council to decide whether an application should be allowed or not on its merits. The Ombudsman cannot criticise a council unless there is evidence of administrative fault in the way it reached its decision. It is not fault that it attached particular weight to its policies – that is a decision it was entitled to make.
 16. Mr X says the planning consultant's report and a second opinion commissioned by residents who objected to the application, both say the Council was wrong in the way it calculated the size of the new building and whether it complies with the policy of buildings in the green belt. However, the consultant's report was considered by the Council and detailed reference to it is made in the case officer report. The report also explains why the case officer disagreed with the consultant's opinion.
 17. Mr X says the Council failed to consider the second opinion. This letter was sent to the Council and members of the planning committee at 7pm, the night before the committee meeting. The Council's website states the closing date for comment was 16 February. Therefore, the Council was not obliged to consider comments submitted so late in the process.
 18. I have not seen any evidence of administrative fault in the way the decision was made. Mr X's objections and those made by the parish council and other residents were considered by the planning committee. But they decided the objections were not sufficient to warrant refusal of the application. That was a decision the Council was entitled to take.
 19. Mr X says there is now evidence that the building was always intended to be a public mosque. However, the Council must determine the application before it. The application was for a multifunctional examination and lecture hall. The school also confirmed the building would not be used as a public mosque and explained why it would not be suitable to function as such.
 20. Having considered the information available, I consider it is unlikely we will find fault in the way the Council decided to approve the planning application.
 21. I understand that Mr X does not live very close the application site. Therefore, I do not find that he has suffered any significant personal injustice because of the Council's decision to grant planning permission for development in the green belt.

Final decision

22. I have decided not to investigate this complaint because it is late. And I consider it is unlikely we will find fault in the way the Council decided to grant planning permission. Also, I do not consider that Mr X has suffered a significant personal injustice because of the Council's actions.

Investigator's decision on behalf of the Ombudsman