

**Complaint reference:**  
16 004 091

**Complaint against:**  
Cambridge City Council

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

Summary: There were failings in the way the Council considered a planning application for an extension to the complainants' neighbour's property. The Council has agreed to take action to remedy the complainants' injustice.

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## **The complaint**

1. Mr and Mrs B complain that there were failings in the way the Council determined a planning application for an extension to a neighbouring property. In particular, that the Committee approved the application on the basis of inaccurate drawings and a report which contained errors.

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

2. The Ombudsman investigates complaints about 'maladministration' and 'service failure'. In this statement, I have used the word fault to refer to these. She must also consider whether any fault has had an adverse impact on the person making the complaint. I refer to this as 'injustice'. If there has been fault which has caused an injustice, she may suggest a remedy. (*Local Government Act 1974, sections 26(1) and 26A(1)*)
3. 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)*)
4. When we investigate a complaint about a planning decision we consider whether there has been any administrative fault in the way the application has been decided which may call into question the decision. We do not consider the application afresh on its merits; we look only at the process followed by the Council when it reached the decision.
5. When a council considers a planning application it should consider the impact it will have on neighbouring properties. But it is not the case that planning permission must be refused if development will have an adverse impact on other properties. The council must assess the degree of impact and decide if it is so great that the application should be refused. This is a judgement the council makes taking into account all the relevant information. Provided the council carries out the assessment properly then we cannot question the decision that has been made.

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## **How I considered this complaint**

6. I have:
  - considered the complaint and the documents provided by the complainant;
  - discussed the issues with the complainant;
  - made enquiries of the Council and considered the comments and documents the Council has provided; and
  - given the Council and the complainant the opportunity to comment on my draft decision.

## **What I found**

7. In August 2015, the Council granted planning permission to Mr and Mrs B's next door neighbour to erect a two storey rear and side extension with rooms in the roof space and a first floor balcony. The application was determined by the Council's Planning Committee.
8. Mr and Mrs B had objected to the proposal. Their key objections related to overlooking/loss of privacy, overshadowing and the scale and bulk of the development leading to a sense of enclosure. They consider the Council failed to properly take account of their objections.
9. The officer's report to Committee includes the planning officer's consideration of these key objections. It does not specifically address every point made by Mr and Mrs B in their objection. It would not have been practical to do so.
10. In relation to privacy and overlooking, the report goes into some detail about how the officer considered Mr and Mrs B's concerns about loss of privacy to their garden and bedroom.
11. The Council asked the developer to amend the plans to include a louvre screen to the side of the rear facing balcony. In Mr and Mrs B's objection they explained why they did not consider the louvre screen would sufficiently protect their privacy. However, the Council was satisfied that the views from the balcony would be oblique and would not allow direct overlooking of Mr and Mrs B's garden.
12. The Council also added a condition requiring a first floor window to be obscure glazed to ensure there would be no outlook towards Mr and Mrs B's bedroom window. It decided it was not necessary to require one of the velux windows to be obscure glazed due to its height and the obliqueness of the view.
13. I am satisfied that the Council properly considered Mr and Mrs B's concerns about loss of privacy to their garden and bedroom from the rear facing balcony, side facing window and velux window.
14. However, I consider the Council failed to take into account Mr and Mrs B's concerns about another part of the balcony which is not screened and will face their property. The report contains no analysis of the impact of this part of the balcony and does not mention Mr and Mrs B's concerns about loss of privacy to their living room. This was a fault. It seems likely from the plans I have seen that there will be a direct line of sight from this part of the balcony into Mr and Mrs B's living room and garden room.
15. Mr and Mrs B consider the Council should not have relied on a sun study submitted by the developer. I am satisfied that the Council had sufficient information to be able to reach a view about the overshadowing created by the

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extension. It decided that the level of overshadowing would not be great enough to warrant refusal of the application. I have found no evidence of fault in the way this decision was reached.

16. The drawings pack provided to the Committee included plans, elevations, perspectives and photographs. Several of the drawings contain errors. One of the elevations does not include a window facing Mr and Mrs B's property and in one the existing and proposed labels are wrong. There are windows labelled incorrectly on some of the perspective views and the balcony is missing on one.
17. These errors were pointed out by Mr and Mrs B when they objected to the proposal and were listed in the officer's report to Committee. I am satisfied that members were made aware of these errors and that they did not affect the Council's decision to grant planning permission.
18. In Mr and Mrs B's objection to the proposal, they referred to another drawing which they considered was inaccurate. The Council had asked the developer to provide this drawing to demonstrate how the extension would affect the outlook from Mr and Mrs B's property. It shows the existing view from two of Mr and Mrs B's living room windows and the view once the extension has been built. The existing view shows that one of the windows is already partially blocked by a garage. The proposed view shows that the extension will mostly block the outlook from this window and will only be slightly visible from the other window. The evidence I have seen suggests that this drawing is not an accurate representation of the existing view or the view once the extension has been built. It also incorrectly states that the distance between the extension wall and the boundary will be 2 metres when the approved plans show it will be around 1.4 metres. I consider the Council should not have included this drawing in the pack as it had the potential to mislead members about the impact of the proposal. This was fault.
19. The officer's report also incorrectly states that this distance is 2 metres rather than around 1.4 metres. This was fault. However, it correctly states that the extension will visually enclose the outlook from one window and will be visible from the other window. On balance, I consider it likely that the Council would have granted planning permission if the drawing was not included in the pack to Committee and the officer's report had stated the correct separation distance.
20. The Council wrongly listed one of the three dimensional perspective views as an approved plan on the decision notice. It says that its officer included this drawing because it contained details of the louvre screen. The Council accepts that this was an error and it should have sought the louvre details as part of amended elevations before it granted planning permission. The Council has apologised for this.
21. In Mr and Mrs B's objection, they said that they were concerned that the design of the louvre screen was such that it would not protect their privacy. I have seen nothing to suggest the Council considered their concerns before it granted planning permission. This was fault.
22. The Council should have considered their concerns and should have either required the developer to submit fully detailed amended plans or attached a condition to the decision requiring the developer to submit and gain approval of the louvre details. If it had done so, it would have had a greater degree of control over the design of the screen.
23. The Council says that the proposal section of the officer's report could have been more explicit in setting out exactly which drawings were being considered for

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approval and which had been submitted as merely indicative or illustrative material. The Council has apologised to Mr and Mrs B and offered to pay them £100 for the time and trouble this caused them in making their objections clear. I do not consider Mr and Mrs B were put to time and trouble making their objections clear as a result of the contents of the officer's report. This is because council officers write such reports after they have received any objections.

### **Agreed action**

24. The Council has obtained the developer's agreement to add a screen to the section of balcony facing Mr and Mrs B's property. It has also reminded its officers of the need to ensure that plans are checked for accuracy before planning applications are determined and to seek clarification if submitted plans are vague or imprecise.
25. The Council will also apologise to Mr and Mrs B for the failings identified in this case. It will make a payment of £500 to Mr and Mrs B to recognise the time and trouble they have been put to pursuing their complaint and for the uncertainty they have been left with as to whether the outcome would be any different if there had been no fault. The Council will take this action within four weeks.

### **Final decision**

26. I have completed my investigation and uphold Mr and Mrs B's complaint. There was fault by the Council which caused injustice to Mr and Mrs B. The action the Council will take is sufficient to remedy their injustice.

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