

The Ombudsman's final decision

Summary: We will not investigate this complaint about the Council failing to revoke a certificate of lawfulness which was based on false ownership information. The alleged fault has not affected the planning outcome, and we cannot achieve the outcome the complainant is seeking.

The complaint

1. Mr X complains the Council should revoke a certificate of lawfulness as the application form contained false information about who owned the site.

The Ombudsman's role and powers

2. We can investigate complaints about 'maladministration' and 'service failure', which we call 'fault'. We must also consider whether any fault has had an adverse impact on the person making the complaint, which we call 'injustice'. We provide a free service, but must use public money carefully. So, we do not start an investigation if we decide:
 - any fault has not caused injustice to the person who complained, or
 - further investigation would not lead to a different outcome, or
 - we cannot achieve the outcome someone wants, or
 - there is no worthwhile outcome achievable by our investigation.

(Local Government Act 1974, section 24A(6), as amended, section 34(B))

How I considered this complaint

3. I considered:
 - information provided by Mr X.
 - information about the certificate of lawfulness application, available on the Council's website.
 - the Ombudsman's Assessment Code.

My assessment

4. I appreciate Mr X is unhappy about the use which has commenced at a property close to where he lives.

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5. But the Ombudsman is not an appeal body. This means we do not take a second look at a decision to decide if it was wrong. Instead, we look at the processes an organisation followed to make its decision, and we consider if any fault we may find in those processes is likely to have affected the outcome.
 6. In other words, we will only pursue a complaint if there is clear evidence of fault in the way it has been made which, but for that fault, is likely to have led to a different decision/outcome.
 7. The Council has explained that the ownership details included on a certificate of lawfulness application form do not affect how the planning issues are then subsequently assessed. So, even if the Council had asked the applicant to amend the ownership details, the outcome of the application would have been the same. As such, and with reference to paragraphs two and six above, we will not investigate this complaint.
 8. In addition, we also could not achieve the outcome Mr X is seeking, as we cannot direct the Council to revoke the certificate of lawfulness.

Final decision

9. We will not investigate Mr X's complaint because the alleged fault has not affected the planning outcome, and we could not achieve the outcome he is seeking.

Investigator's decision on behalf of the Ombudsman