

12 June 2020

Mr Derek C Ritson



Your ref:

Our ref: 19 020 965

(Please quote our reference when contacting us and, if using email, please put the number in the email subject line)

**If telephoning please contact: 0330 403 4679**

**email address: R.Hunt@coinweb.lgo.org.uk**

Dear Mr Ritson

### **Complaint against London Borough of Croydon**

The Ombudsman has asked me to assess your complaint to decide whether we can and should investigate it.

#### **My draft decision**

Based on the information I have, my view is we should not investigate your complaint. The enclosed draft decision statement explains how and why I have reached this view.

#### **Your chance to comment**

Before I make a final decision, I welcome your comments on what I say in the draft decision statement. Please refer to specific paragraph numbers when you comment. If there is any relevant evidence I have not seen which you wish to send me, please do so.

If you wish to comment on the draft decision statement, please ensure I receive your response by **19 June 2020**. If I have heard nothing by then, I will make a final decision based on the information I have. If you need more time to comment, please explain why and I will consider your request.

#### **Publishing our decision**

We publish our final decision statements on our website. We use false names so they do not reveal details that could identify people involved. If you are concerned that publishing our decision will identify you, please let me know as soon as possible.

**Reasonable adjustments**

We are committed to making sure the way we work does not put disabled people at a disadvantage and to meeting our legal obligations under the Equality Act 2010.

If you need any help or support to use our service, please let us know and we will consider what changes we can make.

**Confidentiality**

The law says we must investigate in private. Because of this, please do not discuss our draft findings with the press, or publish any of our communications in the public domain, including social media. Thank you for your cooperation.

Yours sincerely

A black rectangular redaction box covers the signature area. A small blue mark is visible to the right of the box.

Rebecca Hunt  
Investigator

Enc: Draft decision statement

## **The Ombudsman's draft decision**

Summary: The Ombudsman should not investigate this complaint about how the Council dealt with a planning application for a development near the complainant's home. This is because he is unlikely to find fault by the Council.

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### **The complaint**

1. Mr X has complained on behalf of Mr Y and Ms Z about how the Council dealt with an application for a development near their home. Mr X says the Council has not considered the application in line with planning policy and failed to properly address the impact on Mr Y and Ms Z's home.

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

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

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

3. I have considered the complaint made on behalf of Mr Y and Ms Z and the Council's responses. I have invited Mr X to comment on a draft of this decision.

### **What I found**

4. When a local authority receives a planning application it must look at the development plan and material planning considerations to decide if the proposal is acceptable. Material considerations relate to the use and development of the land in the public interest and includes matters such as the impact on neighbouring properties and the relevant planning policies. It is for the decision maker to decide the weight to be given to any material considerations in determining a planning application.

### **What happened**

5. In 2019, the Council received a planning application to demolish an existing dwelling and build a three storey block to accommodate 9 flats near Mr Y and Ms Z's home. Mr X objected to the proposal on behalf of local residents. The

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application was referred to the Council's planning committee for determination and permission was granted subject to conditions.

6. Mr X has complained about the Council's decision to grant planning permission. He says it has not properly considered the impact on Mr Y and Ms Z's home. He also argues the application will be overbearing, out of character with the area and not in line with the London Plan. Mr X says the Council did not properly consider these issues.

### **Assessment**

7. I will not investigate this complaint about the Council's decision to grant planning permission as it is unlikely I would find fault.
8. The Ombudsman does not act as an appeal body for planning decisions, instead we consider if there was fault with how a decision was made. We cannot question whether a decision was right or wrong or the Council's professional judgement unless there is evidence to show it was flawed.
9. Mr X says the development will have a significant impact on Mr Y and Ms Z's home. However, the case officer did address the impact on residential amenity in their report before deciding the proposal was acceptable. The report says the development has been designed to resemble a large detached house and is in character with the other properties in the area and there will not be an unacceptable loss of privacy to Mr Y and Ms Z's home. The case officer also addressed concerns about loss of light. The roof design was changed during the planning process and the changes meant the roof slightly breached the 45 degree guidelines. However, the developer submitted a further light report and the case officer decided the impact on Mr Y and Ms Z's home would be negligible. I understand Mr X does not agree, but the case officer was entitled to use their professional judgement and the Ombudsman cannot question this unless there is evidence to show it was flawed.
10. Mr X has also raised concerns about the scheme's density and says it does not comply with the density levels in the London Plan. The London Plan was a material planning consideration. However, failing to comply with all aspects of the London Plan was not necessarily fault and the Council needed to weigh up the issues against other material considerations to decide if the proposal was acceptable. The case officer accepts the development's density levels are higher than the levels detailed in the London Plan. But the Plan says it does not need to be automatically applied and the officer's report details why the proposed density levels are acceptable. I understand Mr X does not agree with the Council's decision to grant planning permission, but as the Council properly considered the application before granting permission it is unlikely I would find fault.

### **Draft decision**

11. Subject to any comments Mr X might make, my view is that the Ombudsman should not investigate this complaint. This is because it is unlikely he would find fault by the Council.

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