

Case 200501269: The City of Edinburgh Council

Summary of Investigation

Category

Local government: Planning; Objections

Overview

The complainant (Mrs C) raised a number of concerns about how the City of Edinburgh Council (the Council) dealt with a planning application for demolition of the existing bungalow and construction of a two storey house on a site which borders the rear of her property to the south and how they dealt with her complaint about it.

Specific complaints and conclusions

The complaints which have been investigated are that the Council:

- (a) disregarded Mrs C's objections (*not upheld*);
- (b) did not adhere to their own policies in determining the application (*not upheld*); and
- (c) failed to deal with Mrs C's complaint appropriately (*not upheld*).

Redress and recommendations

The Ombudsman has no recommendations to make.

Main Investigation Report

Introduction

1. Mrs C lives in an area where the predominant house type is the traditional bungalow. When her neighbour applied for planning permission to demolish his bungalow and erect a two storey house Mrs C had various concerns about the proposed house's suitability. She, therefore, objected to the planning application. On 4 August 2005, however, the City of Edinburgh Council (the Council) informed her that the application had been granted. On 10 August 2005 Mrs C complained to the Council about the way the planning application had been handled. The Council responded to Mrs C's complaints but she remained dissatisfied and complained to the Ombudsman.

2. Mrs C had objected to the new building on the grounds that it was out of keeping with the adjacent bungalows, it was much larger than its neighbours, it had no garage or parking space for vehicles and it overlooked the neighbouring properties. Mrs C complained that the Development Quality Sub-Committee (the Committee) had made the decision from drawings and no site visit had taken place.

3. The Head of Planning and Strategy replied to Mrs C's complaint. He said that the planning application was assessed in relation to all relevant planning policies and found to be compliant. The windows on the side of the development facing Mrs C (north) at first floor level served bathrooms and as non-habitable rooms did not breach the Council's privacy guidelines. The Committee did not consider a site visit to be necessary as a great number of photographs were available.

4. Mrs C wrote to the Director of Planning (actually called the Director of City Development and referred to in this report as the Director). She took issue with the Head of Planning and Strategy's reply. She said that she did not think that the Committee had considered the angle of the house. She noted that the Committee members thought that a new build would be more aesthetically pleasing than the jumble of different dormers elsewhere in the street. Mrs C did not consider that was a view shared by the residents of the area.

5. The Director responded to Mrs C. He said that while it is important that the community is aware of, and can take part in the planning process and that their views are considered, it is up to the members of the planning authority to

come to their own view. He said that the Committee had the necessary information to consider the angle of the house. There was some overshadowing but that did not affect Mrs C. There was no Council policy which specifically prohibits the redevelopment of bungalows and the house had adequate parking. He said that if Mrs C remained dissatisfied she could contact the Ombudsman which she did (paragraph 1 refers).

6. The complaints from Mrs C which I have investigated are that the Council:
- (d) disregarded Mrs C's objections;
 - (e) did not adhere to their own policies in determining the application; and
 - (f) failed to deal with Mrs C's complaint appropriately.

Investigation

7. In order to investigate this complaint I have had access to the application papers and the correspondence in relation to the complaint. I have corresponded with Mrs C and with the Council and I have reviewed the relevant planning report and planning policies. I have not included in this report every detail investigated but I am satisfied that no matter of significance has been overlooked. Mrs C and the Council were given an opportunity to comment on a draft of this report.

(a) The Council disregarded Mrs C's objections

8. Mrs C objected to the building on the grounds that it was out of keeping with the adjacent bungalows, it was much larger than its neighbours, it had no garage or parking space for vehicles and it overlooked the neighbouring properties. Mrs C considered that the Council had disregarded her objections.

9. The Council's Planning Officer (the Officer) prepared a report for consideration by the Committee which I have seen. In Appendix A of the report he said that five objections had been received to the original planning application. These were on the grounds of overdevelopment, loss of privacy, change to roofscape, the front porch was too large, it was contrary to the feuing conditions, traffic and parking problems, it was out of character with the area, damage would be caused during construction, loss of views, proposed bathroom windows could be changed to another use in the future, access for maintenance and loss of daylight. The proposals had been revised and a further four representations received but no new issues had been raised.

(a) Conclusion

10. It is clear from the report that, although the Officer summarised the objections which he had received to the proposal, Mrs C's objections were considered by the Officer when preparing his report for the Committee. The report contained a summary of all of the objections received. I, therefore, do not uphold this complaint.

(b) The Council did not adhere to their own policies in determining the application

11. Mrs C thought that by allowing the building to go ahead that the Council had acted contrary to their own policies.

12. In the report which he prepared for the Committee the Officer identified the policies and guidelines which he considered relevant to the application. These were:

- Policy E5 which states that new buildings, in terms of design, materials and landscaping, should make a positive contribution to the overall quality of the environment and regard should be had to their setting and neighbouring development.
- Policy H7 Housing Development Quality which seeks to make best use of land without affecting the character of the area whilst making provision for amenities.
- Policy DQ6 which states that new development should make a positive contribution to the quality, accessibility and safety of the environment, having regard to the character, opportunities and constraints of the site and its surroundings and the basic character of the city
- Policy H4 which requires new development to be sympathetic in scale and density with its surroundings. In conservation areas and defined 'areas of interest' in particular, special care is required to protect local character and amenity.
- Non-statutory guidelines 'DAYLIGHTING, PRIVACY AND SUNLIGHT' which sets criteria for assessing proposals in relation to these issues.

13. In his report the Officer said that he had no objection to demolition of the existing house and a replacement house would accord with the local plan in which the area was identified as urban within a mainly residential area. The Officer said that the proposed house adopted elements of the surrounding buildings. He noted that although the street was dominated by bungalows they were not the only type of building on the street. He also noted that many of the

bungalows had been altered at roof level. The footprint of the house would be one of the largest on the street but it was situated on one of the largest plots so remained proportionate to the plot size. The rear garden was in excess of the policy requirements and the small degree of overshadowing was within policy guidelines. There was room to park two cars at the front of the house and on-street parking was unrestricted. The Officer concluded that although the proposed house was different in character from the one to be demolished it remained within the general character of the area and that its effect on neighbouring amenity fell within acceptable limits. He recommended that permission be granted but that Permitted Development Rights (which allow certain alterations etc to be made without planning consent) be removed. Permission was granted on that basis.

(b) Conclusion

14. I am satisfied that the Officer identified the policies and guidelines which were relevant to the application and considered them in writing his report. I have not seen any evidence that the Council failed to adhere to these policies and guidelines when determining the application. I, therefore, do not uphold this complaint.

(c) The Council failed to deal with Mrs C's complaint appropriately

15. Mrs C said that although she complained to the Director a lower member of the department had responded to her and she required to write again specifically for the Director and to post the letter 'Recorded Delivery' before he responded to her.

16. In his response to her complaint the Director wrote to Mrs C that in terms of the Council's complaints procedures he expected his relevant senior manager to review and try to resolve a complaint. He sent Mrs C a copy of the complaints process.

(c) Conclusion

17. The Ombudsman expects complaints to be handled by listed authorities in accordance with their complaints procedure. I am satisfied that it was reasonable for the Head of Planning and Strategy to respond to Mrs C's complaint in the first instance. When it became clear that Mrs C remained dissatisfied her complaint then escalated to Director level. I note that the Director sent Mrs C a copy of the procedure in response to her complaint about another member of staff responding to her letter of complaint. The Director also

told Mrs C that if she remained dissatisfied with his response she could contact the Ombudsman. It is clear that the Council dealt with this complaint in accordance with their procedure. I, therefore, do not uphold this complaint.

24 October 2007

Explanation of abbreviations used

Mrs C	The complainant
The Council	The City of Edinburgh Council
The Committee	The Development Quality Sub-Committee
The Director	The Director of City Development
The Officer	The Council's Planning Officer

