

# South Tyneside Council

Mr M Dawson  
70 Greens Place  
South Shields  
Tyne and Wear NE33  
2AQ

Date: 18 June 2013  
Our ref: CX/MH/230018  
Your ref:

Dear Mr Dawson

## **Your Stage 3 complaint**

I am writing in response to your request to escalate your complaint to Stage 3 (the final stage) of the Council's complaints procedure. Having completed my investigation, I can respond as follows:

Your complaint is about the Council's decision to grant planning permission for your neighbours development ST/0966/12/FUL at 71 Greens Place, South Shields. You believe the development will have an adverse impact on your property and your amenity and considering that some of the buildings nearby are historically significant, also on the wider area.

I wish to begin by explaining that as the Council's Stage 3 investigator, my role is to consider whether there may have been any fault in the way decisions have been reached. In cases such as this, I cannot substitute my own judgement for that of Planning Committee Members or question whether a decision may be right or wrong simply because a member of the public disagrees with it. I can simply consider whether Planning Committee Members were in possession of all relevant facts at the time they reached their decision, for example by considering whether appropriate planning policy was considered and applied and<sup>1</sup> whether the Planning Committee Report contained sufficient information to enable Members to understand the specifics of the application. This is the same approach as that taken by the independent Local Government Ombudsman.

## **Background**

Your neighbour's application was accepted as valid in July 2012 and the Council's Planning Team wrote to you as part of its standard 'neighbour notification' process advising you of the proposals. You responded by sending a written submission to the Planning Team containing a significant number of objections to your neighbour's plans and explaining why you did not believe planning permission should be granted for the proposed development.

The case officer from the Planning Team visited the site in July and August 2012 and took photographs. The Planning Team's case file shows that the officer had discussions with interested parties to assess the potential impact of the proposed development on the heritage aspects of the wider site and that she considered broader guidance in this area, such as that issued by English Heritage.

In October 2012, after further discussions with the Planning Team, your neighbour's agent submitted amended plans proposing that the brick wall at first floor level be reduced in length and that part of the proposed wall be replaced with a timber fence to reduce its prominence.

Copies of both the original and amended plans were provided to Planning Committee Members on 12 November 2012, together with the Committee Report. The Planning Committee decided to grant planning permission for the development subject to conditions.

### **Your specific questions/concerns**

Your letter dated 3 June 2013 sets out a number of specific questions and concerns that I will attempt to address below.

Your main concern is that your objections regarding "*privacy, outlook, over dominance, overshadowing and the effect on the integrity and character of the street scene and listed buildings*" were not given sufficient weight and that the proposed development directly contravened many of the objectives set out in SPD9.

While planning policies include the need to consider the amenity of neighbours, it is not the role of the planning system to protect the private interests of one person against the activities of another. This is a difficult concept to grasp but it basically means that whilst someone may subjectively consider that issues such as overshadowing, over-dominance and loss of privacy will be adversely affected by a development, these aspects are only relevant *in planning terms* in quite a limited set of circumstances. General guidance about this is provided in SPD9 but this is not definitive and every case is considered individually, taking into account the exact nature of the proposals and the site-specific factors that are relevant in each case.

Having examined the Planning Committee Report in detail, I am satisfied that the Report adequately summarised the potential effects of the proposed development on residential amenity. The Report made detailed reference to the objections you had submitted and also set out the concerns raised by the Historic Buildings Officer. The Report advised Members that the assessment of the acceptability of the proposals was '*finely balanced*' but paragraphs 4.2 and 4.3 explained the site-specific factors that led the officer to recommend that the proposals were acceptable and that planning permission should be granted subject to conditions.

I understand that you disagree with the conclusions in that Report but I can find no fault with officer's assessment. Planning Committee Members were free to accept or reject the Report's recommendations as they saw fit but they ultimately decided to grant permission for the development.

I note your concerns that the proposals did not fall within the scope of 'permitted development' but I believe you may have misunderstood these guidelines. Householders can often extend or add to their house without applying for planning permission at all provided they meet certain conditions; this is known as 'permitted development'. The rules for what is allowed without planning permission depend largely on the dimensions of the proposed extension, its position on the house and its proximity to the property's boundaries. As a general rule however, householders need to apply for planning permission if more than half of the area of land around their "original house" will be covered by additions or other buildings. As this was such a proposal, your neighbour *did* apply for formal planning permission as they were required to do, at which point 'permitted development'<sup>1</sup> guidelines ceased to be relevant. The Planning Committee Report and accompanying plans clearly showed the nature and scope of the proposals and the extent of the land that would be built on if permission was granted. Members made their decision with that information in mind.

I finally wish to turn to your allegation that the fact that the Planning Committee Members made a decision quickly in this case, did not make a site visit and did not address you or your concerns is evidence that the decision was made '*prior to the meeting*'.

Having considered the evidence available to me, I cannot agree with you on this point. The Planning Committee Report was detailed and Members considered the Report in advance of the meeting. The

Planning Committee can request a site visit whenever Members consider it necessary and our records show that Members have conducted such site visits on many occasions in the past. I can see no reason why they would not also have visited this site too had the need arose. Members also decided in this case that the award of planning permission should be made subject to an additional condition that a privacy screen be erected along the proposed boundary with your property prior to the patio being brought into use, which went further than the recommendations contained in the Committee Report. I can find no fault with the way Members opted to decide this case.

#### Conclusion

I am sorry that I cannot uphold your complaint but I hope you feel that this response adequately addresses the issues you have raised. If you remain dissatisfied with the way the Council has handled your complaint you may now approach the Local Government Ombudsman for advice. I enclose a leaflet explaining more about the Ombudsman's role.

Yours sincerely

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