

The Commission for Local Administration in
England
By email only

Mr Paul Conroy
Assistant Ombudsman

15 June 2009

Chief Executive's Office
Corporate Complaints

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My Referece: L/OMB/1-31255625/RD
Your Ref: 08 002912/PBM
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Dear Mr Conroy

Complaint by [REDACTED] **Narrow Street London E14** [REDACTED]

Thank you for your letter dated 26 May 2009 regarding the draft report into [REDACTED] complaint.

The Council's response is drafted against your covering letter and provides commentary on the points as follows:

- *The Council failed to notify neighbours that an application had been made for the development at Flat 2A and 3A, 18-22 Narrow Street.*

We do have evidence that we sent the letters but accept that we have no proof of the delivery or receipt. Given the volume of consultations that are generated from planning applications being considered in the borough, it would be prohibitively expensive to use a recorded or proof of delivery service. It is also accepted that the wrong address details were selected.

- *There is no evidence that the Case Officer visited the site.*

The Case Officer, who no longer works for the Council, has confirmed that she did visit the site, but I accept that this was not recorded on the case file. Case officers have always been required to make site visits to allow a proper and informed consideration of the planning issues raised by a planning application.



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The Council revised its procedure some time ago to ensure that there is documentary evidence of site visits as well as photographic evidence of the erection of site notices.

- *The Case Officer's report is inadequate.*

We partly agree with this conclusion as the report did not explicitly refer to DEV2 and the reasoning behind the decision. However, we would again stress that although the Council still uses a template for Case Officer's to use when dealing with minor planning applications, this is more comprehensive than the version used in this instance.

- *The Case Officer failed to recognise that the application was contrary to Policy DEV2 of the Council's adopted Unitary Development Plan.*

The Case Officer did address this issue in her report, because she specifically says that that amenity was acceptable and that privacy was acceptable. It was the Case Officer's view that these matters were satisfactory, and how she could have come to that view is explained below. Therefore in her judgement the requirements of Policy DEV2 had been met.

Turning to the points on injustice

- loss of amenity through overlooking and loss of value of their property

It is our opinion that the balcony does not result in an unacceptable level of overlooking in "planning terms" and this is what the LPA is tasked to consider. Rather than allowing direct overlooking it is a very oblique view that is achieved. Policy DEV2 is clear in this regard as this issue is expanded on in the explanatory text at Paragraph 4.9. It states:

"New developments should be designed to ensure that there is sufficient privacy for residents. A distance of about 18 metres (60 feet) between **opposite** (my emphasis) habitable rooms **reduces** (my emphasis) inter-visibility to a degree acceptable to most people"

The intention of the policy is not to obliterate any opportunity to overlook as this would render development in inner London almost impossible. Rather, the intention is to reduce the intensity to an acceptable level, and whilst this instance does not involve opposite habitable rooms, the principle remains the same.

It requires the observer to consciously turn and look back at the face of the building at an angle of almost 180° to look into the adjoining property's living room. This type of overlooking is not uncharacteristic afforded by the balconies erected on these riverside properties. The highest amenity value is afforded by the views of the Thames on this stretch of the river. I would therefore suggest that it is these river views that create the highest amenity value for these properties. These views are largely unaffected by the balcony.

Given the above, it is entirely possible that had the [REDACTED] been properly consulted, the outcome would have been the same.

- *the time and trouble she has been put to*

We accept this point.

- *loss of value of the property*

We agree to the points relating to disappointment and time & trouble. However for reasons suggest above, we consider that there is no injustice in relation to overlooking and therefore no loss of monetary value. Nevertheless we are willing to seek the view of the District Valuer in respect of this development.

Yours sincerely



Ruth Dowden
Corporate Complaints Manager

Cc Martin Smith –Chief Executive

Isabella Freeman – Assistant Chief Executive, Legal Services