

**Case 200503182: Midlothian Council**

**Summary of Investigation**

***Category***

Local government: Planning

***Overview***

The complainant raised a number of complaints regarding a development near his home. His complaint was that the development was breaching terms of the planning permission granted by the Council as well as other issues regarding the development.

***Specific complaints and conclusions***

The complaints which have been investigated are:

- (a) trees have been felled which were not detailed in the planning report (*not upheld*);
- (b) damage to amenity (*not upheld*); and
- (c) installation of new street lighting (*not upheld*).

***Redress and recommendations***

The Ombudsman has no recommendations to make to the Council.

## **Main Investigation Report**

### **Introduction**

1. On 17 February 2006, the complainant (Mr C) lodged his complaint with the Ombudsman's office. It was apparent that the complaint had exhausted the complaints procedure of Midlothian Council (the Council).

2. The complaints from Mr C which I have investigated are:

- (a) trees have been felled which were not detailed in the planning report;
- (b) damage to amenity; and
- (c) installation of new street lighting.

### **Investigation**

3. In the process of my investigation, I reviewed the information supplied by the complainant in support of his complaint. I also obtained information from the Council with regards to the complaint. Furthermore, I reviewed documentation which Mr C had supplied for a previous complaint to this office which was related to issues around the planning application.

4. I have not included in this report every detail investigated but I am satisfied that no matter of significance has been overlooked. Mr C and the Council were given an opportunity to comment on a draft of this report.

#### **(a) Trees have been felled which were not detailed in the planning report**

5. Mr C argued that the planning consent granted by the Council did not specifically state that trees would have to be felled within the development site and, therefore, the subsequent felling of trees was not permitted as part of the development. The Council argued that the felling of trees was self evident given the nature of the development. Trees had to be cleared to make way for houses to be built. Furthermore, the developer submitted a tree survey to the Council indicating which trees would have to be felled. Additionally, the Council also took action to ensure trees which were not to be felled were adequately protected.

#### **(a) Conclusion**

6. I am satisfied that the Council have acted appropriately and in accordance with relevant planning legislation. I do not uphold this aspect of complaint.

**(b) Damage to amenity**

7. Mr C felt that a traffic roundabout which had recently been installed in the area was outwith the character of the area and damaged the amenity of the area for existing residents. This was essentially Mr C's opinion, which was opposed to the professional judgement of the Council's planning department. I have reviewed all the evidence available to me in relation to the roundabout and find no evidence of maladministration or service failure. I am satisfied the relevant procedures were followed by the Council in deciding to locate the roundabout.

*(b) Conclusion*

8. As there is no evidence of maladministration or service failure, I do not uphold this aspect of Mr C's complaint.

**(c) Installation of new street lighting**

9. Mr C complained that new street lighting had been installed at, and around, the roundabout without adequate consideration given to the damage to amenity and without consultation with residents. As a consequence of the new roundabout being installed, road lighting was then addressed as a road safety issue.

10. The evidence shows that before installing the new street lighting the Council took into account the relevant British Standards guidelines and also considered the light assessment which had been submitted by the developer. Furthermore, following considerable dialogue with local residents the Council replaced two lighting columns, installed shields on a number of the lighting columns to reduce light intrusion into local resident's properties and also decided that the new lighting columns be painted to ensure they are consistent with the existing columns.

*(c) Conclusion*

11. I am satisfied the Council have followed all relevant policies and procedures and worked with local residents adequately. Indeed, I consider the measures outlined (see paragraph 10) indicate that the Council implemented local resident's requests where possible and the Council should be commended for this. All action was taken appropriately and in the absence of evidence of maladministration or service failure, I do not uphold this aspect of complaint.

31 October 2006

**Explanation of abbreviations used**

Mr C

The complainant

the Council

Midlothian Council