


New Homes Ombudsman Case Study: **Outstanding planning permission**



Issue

The customer complained to the New Homes Ombudsman Service (NHOS) as they considered the home they reserved was mis-sold to them as having full planning permission. They were also unhappy with the way they had been treated by the developer.



Relevant sections of the New Homes Quality Code

Part 1
Selling a new home

Part 2
Legal documents,
information



Circumstances

- Shortly after the customer reserved the property, paying a reservation fee and additional payments for optional extras, their solicitor told them that not all planning conditions on the property had been discharged.
- Discussions then began between the developer and the customer's solicitor aimed at putting in place an indemnity or indemnity insurance to allow the sale to proceed, while the developer investigated the issue with the council.
- However, before the investigation was complete, the customer's lender withdrew their mortgage offer, due to planning issues. The customer withdrew from the transaction and subsequently purchased another property.
- The developer resolved the issue with the council and planning conditions for the property were granted retrospectively and agreed to fully refund the customer's reservation fee and additional payments.
- The customer requested for the developer to meet the costs of their legal fees, escalating the matter to the Ombudsman. Additionally, the customer raised concerns about the conduct of a member of the developer's team, alleging verbal aggression and threats. The developer denied these allegations.
- The developer accepted that there had been an issue with the planning conditions which they had been unaware of until the customer's solicitor raised it but felt they had acted appropriately in offering practical solutions to allow the sale to proceed and reimbursing the customer in full for payments made.
- During the Ombudsman's investigation, the developer offered a contribution towards the customer's legal fees, but the customer declined the offer.

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Ombudsman Decision

The Ombudsman acknowledged the assistance the developer had offered, and that the customer's reservation fee and extras payments had been returned in full, went beyond the requirements of the Code. The Ombudsman also accepted that the developer had been unaware of an issue with how planning conditions were being discharged until it was raised by the customer.

However, from the customer's perspective, the situation should not have arisen and their reluctance to proceed with the purchase was understandable considering the advice they had received from their solicitor and the communications from the mortgage lender.

The customer provided evidence of the legal costs they had incurred in pursuing the transaction, and the Ombudsman concluded that the developer should pay the customer's legal costs in full. The complaint about inappropriate treatment was not upheld.

Outcome

The complaint was **upheld in part**.

Learnings

- Any issues with the planning conditions should be picked up before homes are released for sale. Issues like this can erode customers' trust and result in potential complications.
- Understanding and taking responsibility for the costs incurred by the customer due to the developer's mistake or oversight is important to maintain trust and reduce negative experiences.

Recommendations

Establish regular reviews of planning conditions to identify any potential issues early on.

Adopt a fair reimbursement policy for customers which acknowledges costs incurred by them due to oversights/mistakes made by the developer.

Provide ongoing training for customer-facing staff to equip them with the necessary skills and empathy to handle conflicts or disputes with customers, including de-escalation techniques and conflict-resolution strategies.

