

## Section F: Land

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# F1: Disposal

Delay in considering future of disused community centre – failure to co-ordinate council's approach – service committee purported to agree disposal but without power to do so – local public consultation

1. Mr Chambers and Mr Jay complained through their Member of Parliament that there was maladministration in the way a council decided the future use of a disused building which the council owned.

## Background

2. The building concerned (Thompson House) was a former place of worship, acquired by the council in 1982 for use as a community centre. It was surrounded by residential property.
3. The building was used for a number of years by a local voluntary organisation as a community centre. There were complaints by local residents about the anti-social and unneighbourly way in which the building was used and about associated criminal activity, including street violence and drug dealing. The council agreed to find new premises for the voluntary organisation, which vacated Thompson House. After the voluntary organisation moved, there was a period of some four years before the contractual term of the lease expired and the council was able to regain possession. In the meantime, Thompson House remained vacant. It was almost a year after that before the council decided on an alternative use.

## Lack of planning

4. The Ombudsman criticised the council's lack of planning. The council knew that the lease was due to expire in July 1995. But there was no evidence that the council used the time before it could obtain possession of Thompson House to identify all the

possible uses for, and users of, the site. The Ombudsman said:

*"I would expect any prudent council to make plans for the use of an asset which it owned, and on which substantial sums of public money had already been spent, so that it could be brought into beneficial use as soon as possible after possession was obtained."*

5. The council failed to use the time before the end of July 1995 to do planning of this kind. The Ombudsman thought that much of the delay and confusion which arose after that time could have been avoided if the council had prepared properly and in good time for the use of the site after it could regain possession. The failure to do so was maladministration.

## Poor co-ordination

6. There were different views within the council about whether the site should be used for housing or a community use. Some of the discussion about this was conducted in terms of which committee 'owned' the site. The Ombudsman pointed out that no committee owned it: it was owned by the council. The evidence suggested that at least some members and officers behaved as though each committee were a separate and independent 'barony' rather than a component of the council as a corporate body.
7. There was no effort to co-ordinate the council's views on the most appropriate use of the site. The housing department had discussions with a housing association about making the site available for housing.

But at the same time discussions were proceeding between the community development unit and Turkurd, another voluntary association, about that association taking over the building for community use. As a result, Turkurd was encouraged to think that it might take over Thompson House, while the housing association hoped it might obtain the site. Local residents, who were expressing concern about the future use of the site, particularly in the light of the history of previous use, received conflicting messages. The lack of co-ordination was maladministration.

### No authority for decision

8. In May 1996 the community services committee resolved to allocate Thompson House to Turkurd. However, the terms of reference of that committee did not include the management or disposal of land, property and buildings. The committee had no authority to deal with the disposal of interest in land and so its decision was taken with maladministration.
9. Following that purported decision, the council engaged consultants to organise a public meeting at which the proposed future use of Thompson House would be explained. There was muddle and confusion about the purpose of this meeting. The ward member believed that the council should have been consulting about the principle of the use of Thompson House. The members and officers who were interviewed during the course of the investigation believed that the council was not seen by residents as the body consulting them, and they believed that it should have been. The chair of the community services committee was unaware of the date of the meeting, and local residents

complained that they were only given two days' notice of it, even though the consultants had had nearly two months in which to organise it. The Ombudsman said that since the community services committee was not authorised to approve the allocation of the site to Turkurd, the council's stated purpose for the consultation meeting (ie explaining how Turkurd would use the building) was flawed.

### Outcome

10. In October 1996 the policy and resources committee considered a report by the borough valuer about Thompson House and received deputations from Turkurd and from local residents. The committee authorised the allocation of a lease to Turkurd. The Ombudsman recognised that the decision was deeply controversial, but the evidence did not indicate that the decision was reached with maladministration, and the Ombudsman could not therefore comment on the merits of the decision.
11. The Ombudsman considered that, but for the council's maladministration, it would have been able to decide the future of the site almost a year earlier. The complainants had been put to a great deal of avoidable time and trouble and, in recognition of this, the Ombudsman recommended the council to pay each of them £150. The Ombudsman also recommended that the council should review the terms of reference of all its committees to ensure that there was no scope for uncertainty about whether they had responsibilities for the management and disposal of land.

*(Report 96/A/2898)*

## F2: Industrial estate

### Proposed closure of estate – inadequate consultation with tenants

1. Tenants of an industrial estate complained about the decision of a council to close the estate and redevelop it for recreational use. They complained that the council failed to consult them properly when considering the estate's future; and that as a result they were denied an opportunity to influence events so as to avoid or minimise problems for themselves.

#### What happened

2. Although the council had previously decided to close the estate and then deferred implementation, it decided the policy should be reviewed and a further report on the estate's future should be prepared. Following consideration of that report by various committees, a decision was taken to close the estate.
3. Tenants said that they expected to have a genuine opportunity to make their views known during the policy review and that they were promised consultation by council representatives in two meetings. There was no record of the first meeting. Notes of the second meeting recorded that tenants were to be involved in the policy review.
4. Consultation took place on site towards the end of the month before the report was considered. The consultation consisted of individual meetings with tenants but there was conflicting evidence over who was seen. The surveyor who had prepared the report advised tenants orally of the three options in the report: closure, keeping the estate open or partial closure.
5. Tenants received no written details of the proposals. Some information in the draft report was confidential and the council therefore considered it inappropriate to release the draft report for consultation.

#### The Ombudsman's view

6. The Ombudsman commented:  
*"In my view the consultation process undertaken by the council when considering the future of the estate was not wholly adequate and certainly did not meet the tenants' expectations. It was largely designed to inform tenants rather than elicit their views. The fact that the officer's report contained some confidential information should not have prevented the council from providing a summary document as the basis for consultation. The lack of this meant that tenants were not provided with sufficient information; the information was not in a suitable form; there was not time for a considered response; and there was not time for the council to have taken a response properly into account."*
7. The conflicting evidence about who was consulted was regrettable. The Ombudsman regarded the failure to consult properly as maladministration.
8. Proper consultation would have allowed tenants to put forward pertinent points for consideration which in theory could have affected the council's decision. However, while certainty was not possible, the Ombudsman considered a different outcome to have been unlikely. Closure had already been deferred for some time and political will was firmly in favour of it, so agreement to further delay was improbable.
9. Communication with tenants in this case was not in line with what tenants had envisaged, and the Ombudsman recognised that they felt considerably let down and marginalised by the council as a result. But the Ombudsman was unable to conclude that the maladministration led to injustice.

*(Report 96/C/1735)*

## F3: Travellers' sites

Travellers consulted about two temporary sites – decision taken to put all travellers on one site without proper assessment – overcrowding – inadequate facilities

1. Ms Connor lived on a temporary caravan site for travellers. She complained, on her own behalf and on behalf of the other families who lived on the site, that a council was at fault in the way it dealt with the provision of travellers' sites in its area.

### What happened

2. The council had one permanent travellers' site in its area. This was not large enough to meet the demand for pitches and other sites were used on an unofficial basis. The families concerned in this investigation lived on a temporary site (Site 1). The council wished to redevelop Site 1 for light industrial use and the council agreed that officers should prepare a brief to develop another site (Site 2) as a second permanent travellers' site, subject to funding being available. The council recognised the need to consult the travellers, and agreed that the travellers working group, which had not met since the opening of the permanent site, should be reconvened to make recommendations to the council. This group comprised officers and members of the council and representatives of the travellers.
3. The travellers' preference was for a permanent site on Site 2, and officers reported to members that Site 2 could be made to work in terms of environmental and planning concerns.
4. In the event, a decision on a permanent site could not be made before the travellers had to be moved from Site 1. The council decided to look for suitable temporary sites. The travellers knew that Site 2 and another site (Site 3) were being considered.

The report to a committee when the decision was made was written on the basis that both sites were needed. It was not until the meeting itself that a member raised the possibility that Site 3 alone could accommodate all the travellers if all the available money was spent on it. The Ombudsman found that the committee took a decision without a proper assessment of the feasibility and suitability of Site 3 alone as the place to which the families from Site 1 could move. Moreover, the committee did not know the views of travellers, who had not been consulted about whether Site 3 would be suitable on its own. The Ombudsman found that taking the decision in this way was maladministration.

5. The travellers moved to Site 3. The site was overcrowded and there were difficulties with surface water not draining away, lack of play space for children, no electricity on the site, and problems with water supply, rubbish disposal and toilets. It was not until six months later that the council made improvements on the site.

### The Ombudsman's view

6. The Ombudsman considered that if a proper assessment had been made and the committee had still decided to use Site 3 as the only temporary site, the committee would probably also have decided that some, if not all, the facilities which were later provided should be made available sooner. The travellers suffered an injustice as a consequence of the council's maladministration because they had to live in unsatisfactory conditions for longer than they probably would have done but for the fault.

7. The Ombudsman noted that the council had recently made some improvements to the site and had plans for more, and recognised that this was by far the most important remedy for the travellers. In addition, the council was recommended to:
- pay £250 to each of the families;
  - ensure that the planned improvements were completed without delay;
  - ensure that travellers were fully consulted about any future proposals for another site; and
  - ensure that any future proposals for travellers' sites were the subject of a proper appraisal.

*(Report 96/A/2767)*