

Investigation finds planning application was not properly considered

The Ombudsman has found that an application to build a residential nursing home in County Down, was, in part, incorrectly assessed by planners.

In 2010 an application was received to extend and change the use of a golf clubhouse to provide a nursing home in Killyleagh. The Department of the Environment (which was responsible for planning matters at the time) granted approval of this application in 2011. In 2013 a further application was received to include ancillary building and associated external works. Departmental approval of this was granted in December 2013, subject to conditions.

After the transfer of planning functions from the Department to the Councils on 1 April 2015, Newry, Mourne and Down District Council then became responsible for all matters relating to the 2010 and 2013 applications.

The Ombudsman received a complaint about the way the applications were processed.

The investigation found that although the 2010 application was for an extension of the original building, it was instead demolished and a new building put up in its place.

Despite this, when the Department received the 2013 application it used the 2010 application as a 'material consideration' during the assessment process. This involved applying '*The conversion and reuse of existing redundant buildings*' section of Planning Policy Statement 21.

The Ombudsman consulted an independent planning advisor, who stated that 'in the circumstances following a demolition, any established use rights are lost and the site has a nil use'.

Once the building had been demolished therefore, this policy should no longer have been used to assess the 2013 application.

The Ombudsman upheld this part of the complaint. In addition, having looked at the complainant's allegations about the Council's complaints handling, it was found that there were failures to follow the Council's policy and a delay in handling the complaint.

In regard to other aspects of the complaint, it was found that the original planning application in 2010 was processed properly, and that the Council took appropriate enforcement action over the developer's breaches of planning control.

The full investigation report can be viewed [here](#).