

17/07/2018

Dear Mr Jones

I refer to your correspondence with our branch manager which was passed to this department for review and response. I am now in a position to provide you with my response. I would like to apologise for the slight delay in reverting to you; unfortunately, the case officer who was originally assigned your file took ill shortly after. As she is now not expected back in the office for several weeks, I have taken over your file.

You stated that you had not been informed when you viewed the property that planning permission for a nearby development of 120 houses had previously been granted.

The Consumer Protection from Unfair Trading Regulations 2008 place an obligation upon estate agents to disclose information which the average consumer may need to form a transactional decision.

Our branch staff have stated that they do not recall the precise details of your discussions and nor, as your viewings were over a year ago, would I reasonably expect them to. As I was not present and have no means of obtaining independent evidence of what was discussed, I am unable to reach any conclusions regarding what you were told.

However, reviewing the files of several of the other persons who viewed, I see that they were aware of the planning application. As the majority of these persons did not live in the immediate area, it does appear that they were informed of the proposed development by our staff and there was clearly no intention to withhold such information.

The Regulations also state –

*In determining the effect of a commercial practice on the average consumer where the practice reaches or is addressed to a consumer or consumers account shall be taken of the material characteristics of such an average consumer including his being reasonably well informed, reasonably observant and circumspect.*

(The underlining is my own for ease of reference.)

During conveyance, it is reasonably expected that a solicitor will undertake a Plan Search for any large projects within 500m, particularly when the property abuts an open field. Naturally, I do not know if your solicitor undertook this step or recommended this but this would also have brought the development to light if you were not previously aware of this.

In conclusion, as there is no evidence available to me to determine whether you were informed of the proposed development (albeit with circumstantial evidence suggesting that

you were) and because a search appropriate to the locale undertaken by your solicitor would have brought it to light, I regret that I am unable to uphold your complaint.

I recognise that you may be disappointed by my findings but hope that I have explained my reasons for reaching them.

Yours sincerely

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