

## **The complaint**

Mrs P complains that The Mortgage Works (UK) Plc (TMW) unfairly declined her mortgage application.

## **What happened**

Mrs P applied for a buy-to-let mortgage with TMW on a property she already owned that was mortgage free. The application was approved and a valuation was carried out.

The valuation report identified that right of way/access to the property across neighbouring properties was a problem and that there was no valid energy performance certificate (EPC). It gave a zero valuation.

Mrs P responded to say that the surveyor had got it wrong, there were no issues with access to the property and the Land Registry proved that.

TMW said that the surveyor did not agree about access. And in any case the main reason for declining the application was that the property was next to two commercial premises and the possibility there could be a change of use of the properties.

Mrs P complains that the valuation report was factually inaccurate and if being next to commercial properties is not acceptable, then TMW should have asked about that at application stage. It isn't fair to then ask her to pay a valuation fee for a property that would never have met their lending criteria. The property was bought originally with a mortgage – so it is fit for mortgage purposes. Mrs P wasn't the valuation fee refunded plus compensation for the time and cost of obtaining Land Registry information

The investigator did not think the complaint should be upheld. Mrs P did not accept what the investigator said.

## **What I've decided – and why**

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

I understand why Mrs P thinks that TMW should have asked whether the property was next to commercial premises if that wasn't acceptable to it. But I don't consider it was unreasonable for TMW not to ask that question. I will explain why.

It is for each mortgage lender to decide which types of properties it is prepared to lend against. That is a legitimate use of its commercial judgment and not something I would look to interfere in. In my experience, many lenders have a long list of things relating to the property such as its construction type, its location, rights of way etc. that they aren't prepared to lend against. I don't consider it would be practicable or reasonable for lenders to ask detailed questions about the property for each and every potential scenario to make sure that the property meets its criteria. And the application of the criteria is often likely to be nuanced and very fact specific. It's unlikely that sufficient detail could be gathered in an

application to make such a question useful.

It is reasonable – and in line with good industry practice – for the lender to instruct a valuation to decide if a property offers suitable security. The property was valued by an independent surveyor. And they did not consider that the property was suitable for mortgage purposes. That does not mean the property was not worth anything or that there was not any lender that would be prepared to take the property as security, but rather that it was not acceptable security to TMW.

The surveyor was not employed by TMW, so I can't consider a complaint about them. But TMW was entitled to rely on their independent opinion. When Mrs P challenged the decision, it was referred back to the surveyor and looked at again by TMW. They clarified that it was the potential change of use of the commercial premises that presented an issue with access – so they did not consider the property was suitable security. This was reasonable and a decision it was entitled to take.

I don't think it was unfair for TMW not to ask if the property was next to commercial premises in the application. It was reasonable for it to rely on the valuation to decide if the property offered suitable security – bearing in mind its own appetite for risk. In view of that, and as the valuation was carried out – it is fair and reasonable for TMW to apply the valuation fee.

Mrs P was entitled to challenge the valuation and TMW's decision. But as I consider TMW has acted fairly and reasonably, I can't tell it to compensate her for her time and effort in doing so.

### **My final decision**

My final decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs P to accept or reject my decision before 15 December 2023.

Ken Rose  
**Ombudsman**