

CAMBRIDGE CITY COUNCIL

REPORT OF: Director of Environment and Director of Customer and
Community Services

TO: Civic Affairs Committee

19/9/2013

WARDS: East Chesterton

COMPLAINT CONCERNING NUISANCE CAUSED BY THE USE OF THE GUEST HOUSE AT 70 GREEN END ROAD

1 INTRODUCTION

- 1.1 Earlier this year the Council referred a formal complaint by Mr & Mrs Wisbey to the Independent Complaints Investigator (ICI). In essence the complaint was that actions of the City Council had led to serious levels of nuisance over a number of years being caused to Mr & Mrs Wisbey's enjoyment of their house in Green End Road.
- 1.2 This report sets out the details of the complaint, the findings of the ICI work and action that has been taken as a consequence of these investigations.

2. RECOMMENDATIONS

- 2.1 To note the actions taken in relation to a complaint concerning nuisance caused by the use of the Guest House at 70 Green End Road.

3. NATURE OF COMPLAINT AND INDEPENDENT INVESTIGATORS FINDINGS

- 3.1 A copy of the ICI report is attached as Appendix 1 to this report (it is in redacted form because the report contains names of individual members of staff) together with a timeline of key events attached at Appendix 2.

- 3.2 The ICI report sets out the case in detail, however the key facts are set out below.
- 3.3 In 2005 the City Council entered into an agreement with the owner of the Guest House at 70 Green End Road for temporary accommodation of vulnerable homeless people (the City Council had also housed people at the property prior to that date). The agreement was conditional on the property only housing local authority clients with no more than 9 people.
- 3.4 The 2005 agreement was in breach of the lawful planning use of the property which was as a Guest House with no more than four bedrooms.
- 3.5 In July 2005 Environmental Services registered the Guest House as a House in Multiple Occupation (an HMO is subject to the Housing Acts which deals with separate considerations to the lawful planning use) of no more than 9 people.
- 3.6 At the time the Guest House was registered as an HMO Environmental Services advised the Planning Service. A letter was sent by the Planning Service to the owner of the Guest House reminding him of the restriction of 4 bedrooms and advising that planning permission would be required for the HMO with up to 9 people. From 2005 onwards Mr & Mrs Wisbey experienced noise disturbances from the people being housed in the Guest House.
- 3.7 In April 2007 the records show the first contact by Mr & Mrs Wisbey to the Anti-Social Behaviour (ASB) Team when the City Council was advised of the nuisance from the use of the Guest House. Various attempts were made by officers in the Housing Needs Team and the ASB Team to try and resolve the problems. Unfortunately these attempts were not successful and the problems continued over the following months and years.
- 3.8 The nature of the anti-social behaviour was very unpleasant, offensive, at times frightening and seriously affected the Mr & Mrs Wisbey's enjoyment of their home. During this period the Guest House was used by both the City Council and also other local authorities to house vulnerable homeless people.
- 3.9 In June 2012 a newly appointed officer in the ASB Team requested the Planning Service to clarify the lawful use of the Guest House. The initial advice was incorrect and was that there was not a case for the Planning Service to take action. This advice was subsequently corrected and in October 2012 the Guest House ceased to be used

by the City Council for placements and effective planning enforcement action was taken to cease the unlawful planning use of the property.

- 3.9 The ICI concluded that there were three areas in which City Council failed the complainant. The failure to monitor and enforce a planning breach; the lack of recognition of that breach by Housing Needs and the failure to deal effectively with chronic neighbour nuisance over a long period of time, by Housing Needs, Environmental Services and the ASB team.
- 3.10 The ICI was concerned that the Housing Needs Team had a conflict of interest in that officers wished the HMO to continue in order to meet their duty to house.
- 3.11 The ICI considered the statutory nuisance the complainant has endured over time to have been severe and to have been compounded both by the City Council's own actions in designating the Guest House as an HMO for use of nine rooms and by its failure to take enforcement action. In the light of this the ICI recommended compensation to run from when City Council first had knowledge of the problem. This, from the ASB record, is in early 2007; a period of five years in total. The ICI recommended, in line with Local Government Ombudsman guidance, compensation of £2000.00 per year for five years. A total of £10,000.00 together with the sum of £250.00 as a time and trouble payment in consideration of the time taken in pursuing the complaint.
- 3.12 In addition the ICI recommended the following action by the City Council:
- That an internal investigation seeks to establish how, given the Planning Inspectorate decision of 2002, a change of status to an HMO with nine rooms, was permitted in 2005.
 - That when any licence for an HMO, or any other form of emergency accommodation is issued, the Planning Service provide written advice to the applicant about the status of the planning position and any subsequent action is followed up, as necessary, by the Planning Service.
 - That a designated officer, within the Planning Service, is assigned to maintain, update and monitor a central record for this purpose.
 - That a full review of staffing needs in such premises is undertaken and made conditional on the granting of a licence. This should be recorded where all involved departments can access it and be properly monitored.

- Before any referral is made to premises used for temporary accommodation, a note should be put on file showing a planning status check has been done together with a note of the number of rooms already occupied to avoid any use beyond that permitted.
- That an agreement is reached between Local Authorities concerning ASB and lack of management.
- That effective monitoring of conditions and requirements takes place.
- Where different departments are involved a single point of contact should be established and a central register of complaints kept.

4. **COMPENSATION**

- 4.1 In response to the ICI findings the Director of Environment consulted with the Chair, Opposition Spokespersons, and Executive Councillors, about exercising his delegated urgent action powers (under Part 3 Section 9 of the Constitution) to make the recommended compensation payment to Mr& Mrs Wisbey. Councillor Herbert objected to the use of these powers and stated that it was not appropriate to settle the level of compensation and any follow up action/learning by way of emails amongst councillors and officers. He stated that the ICI report should be discussed at the Civic Affairs Committee. Councillor Herbert also stated that the compensation should cover the period from 2005 when the nuisance started.
- 4.2 The Director of Environment carefully considered the issues raised by Councillor Herbert and concluded, supported by the Chair and Executive Councillors, that he should exercise the urgency powers on the payment of the compensation to avoid any delay to Mr & Mrs Wisbey. He believed it was the correct decision to make the payment as soon as possible given the nuisance they had experienced and the need to bring this matter to a prompt conclusion. The Chief Executive and the Director of Customer and Community Services also supported this view.
- 4.3 It is normal City Council practice for a decision on compensation to follow the recommendations of the Independent Complaints Investigator and the Local Government Ombudsman and for complaints to be dealt with by officers using delegated powers. In this case the Director decided to use urgency powers given the scale of the compensation involved. He noted Councillor Herbert's view that the matter should be deferred until the Civic Affairs Committee for a decision and that he believed that the level of compensation should be set to cover seven years rather than five years (i.e. £14,000 rather than £10,000).

- 4.4 On the issue of the level of compensation the Head of Legal Services shared the Independent Complaints Investigator's report with the Local Government Ombudsman's office. The informal advice from the LGO Investigator was that the report addressed the complaint properly and identified appropriate remedies. With regard to financial compensation, the advice was that this was at the higher end of the range usually considered by the LGO but the Investigator did not suggest that it was excessive. The Head of Legal Services asked for advice regarding the period over which compensation should be assessed - specifically whether it should include the period from 2005 to 2007. The LGO Investigator said that she regarded 2007 as an appropriate start date, as this was the date from which there is evidence of complaint to the Council, and from which the Council should have acted more effectively. The approach of the Independent Complaints Investigator in this regard is in line with that of the LGO. In the light of this advice the Director of Environment concluded that compensation of £10,000 (+ £250 for time and trouble) was a fair and equitable settlement and he therefore made arrangements to pay the compensation at this level.
- 4.5 This was informal advice from the LGO. It remained open to Mr and Mrs Wisbey to make a complaint to the LGO if they were dissatisfied with any aspect of the Council's response, including the level of compensation offered.

5. ACTION TAKEN TO ADDRESS THE COMPLAINT

- 5.1 On 2 August the Director of Environment wrote to Mr & Mrs Wisbey with an unreserved apology on the behalf of the City Council for the mistakes that were made in seeking to stop the nuisances.
- 5.2 In addition the Director of Environment set out the City Council response to the eight actions recommended by the ICI. This response was as follows:
1. Internal investigation. The Director of Customer and Community Services and the Director of Environment will jointly undertake this investigation to confirm how the 2002 Planning Inspector's decision was not acted upon
 2. Written advice by the Planning Service to be made available when an HMO licence is issued –this has been actioned and the formal notification is now being passed to the Planning Enforcement team for checking when an HMO licence application has been

made (i.e. rather than later in the process when the licence has been issued).

3. Appointment of designated officer to record planning status of HMOs – this has been done and is the New Neighbourhoods Development Manager (for growth sites in the City) and the City Development Manager (for other parts of the City).
4. Review of staffing needs in such premises- Officers ensure that premises are staffed in appropriate cases and processes will be changed to ensure that conditions and requirements for a particular property are shared between services and when officers are inspecting premises they are fully aware of the requirements of other services and can share information appropriately.
5. Note on file before any referral for temporary accommodation – The Housing Advice Team has now introduced a process to check the planning status of shared accommodation it uses for emergency purposes such as Bed and Breakfast/Guest House type accommodation. All other forms of temporary accommodation are for self-contained households and/or are in the Council's ownership and management and therefore there is no question over the planning status.
6. Agreement between authorities concerning ASB or lack of management –The last major incident of anti-social behaviour at the Guest House emanated from a resident placed by South Cambridgeshire District Council. As soon as this became clear City Council officers made representations to South Cambridgeshire District Council and the resident was evicted. The City Council has made neighbouring authorities, who are known to use the Guest House, aware of the current issues and asked for their cooperation.
7. Monitoring conditions or requirements – As a result of this case the Housing Advice Team will more quickly stop using emergency accommodation if a similar set of circumstances arise.
8. A single point of contact with central register of complaints where different departments are involved - We will endeavour to ensure better co-ordination between departments where more than one is involved, and are addressing improved coordination between the departments involved in this case.

6. CONCLUSIONS

- 6.1 There has been a clear failure in the way that this case has been dealt with. An unreserved apology has been made to Mr & Mrs Wisbey. Compensation has also been paid.

- 6.2 There are clearly important learning points for the organisation that arise from this case. The report sets out a comprehensive and full set of actions that have been actioned. In addition the two Directors are completing an internal investigation to ensure that every appropriate action has been taken. The most evident finding from the ICI investigation is the lack of joined up working across teams and departments. No other case could show more starkly the importance of officers working together as 'one Council'.
- 6.3 All the actions listed will be followed up and the lessons learned will be acted upon.

7. **IMPLICATIONS**

(a) **Financial Implications**

The costs of the compensation is being met equally by budgets from the two departments directly involved in this case.

(b) **Staffing Implications**

None other than the issues described in the foregoing report. The events took place over several years and at least one key officer has left the organisation during this period for reasons unconnected with the case.

(c) **Equal Opportunities Implications**

This case illustrates the importance, when addressing the needs of the vulnerable, to maintain a balanced and reasonable consideration of the impact of anti social behaviour on neighbours.

(d) **Environmental Implications**

Nil

(e) **Procurement**

Nil.

(f) **Consultation and communication**

As described in the foregoing report

(g) **Community Safety**

The ASB officer played an important part in pursuing a resolution for the Wisbey's, Nevertheless this is a case which should have been

resolved at a much earlier stage by more effective interdepartmental working, without the need for the involvement of the ASB team.

BACKGROUND PAPERS: None

The author and contact officer for queries on the report is Simon Payne on extension 8277 .

Report file:

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