



To: Planning Committee
Report by: Head of Legal Services, Head of Planning Services
Relevant scrutiny committee: Planning Committee 1/10/2014
Wards affected: All

**FINDINGS OF MALADMINISTRATION BY THE LOCAL GOVERNMENT
OMBUDSMAN: PLANNING APPLICATION
Not a Key Decision**

1. Executive summary

The Local Government Ombudsman has made findings of maladministration in respect of two complaints. The complaints relate to the Council's determination of a planning application.

In these circumstances, the Head of Legal Services, as the Council's Monitoring Officer, has an obligation to report the findings to a meeting of the full Council. The Council is obliged to set out what action has already been taken in respect of the findings, what action it intends to take and the reasons for taking the action.

This matter has already been reported to the Planning Committee but, at that point, the Ombudsman's decisions had not been issued. The two decision letters are appended to this report.

The Ombudsman's final decision is this:

“The Council was at fault for failing to take account of the locally protected status of a building when it granted permission for the building to be extended. It has since done everything reasonable to put this right and, as there was no other fault with the process, there is no reason for me to pursue the complaint.”

This report summarises the complaints and sets out the action taken in response. The Planning Committee is asked to consider the action taken and whether it is adequate or whether further steps should be taken. The Planning Committee then needs to make a recommendation to full Council accordingly.

The previous report was considered by the Planning Committee on 6 August 2014. Its title is:

“Development at 14 Victoria Street, Cambridge (Planning permission ref: c/14/0342/ful): Consideration of revocation of planning permission.”

The Committee decided not to revoke the planning consent.

2. Recommendation

To recommend to full Council that it endorses the actions taken by officers in response to the findings of the Local Government Ombudsman

3. Background

The two complaints relate to the Council’s consideration of an application for a home extension. The Ombudsman’s conclusions are the same for each complaint. The decision letters are appended to this report.

The Ombudsman found the Council at fault “for failing to take account of the locally protected status of a building when it granted permission for the building to be extended.” The decision letter goes on to say that the Council “has since done everything reasonable to put this right and, as there was no other fault with the process, I have closed the complaint.”

The Ombudsman rejected other aspects of the complaints.

The Ombudsman decision letter summarised the issue as follows:

“When considering planning applications, the Council must take account of its Local Plan and associated policies. Policy 4 / 12 of the Council’s Local Plan deals with Buildings of Local Interest. It says: *“Applications for planning permission to alter such buildings will be considered in the light of the Council’s Approved Guidance on Alterations and Improvements to Buildings of Local Interest.”*

“The officer’s report on [the] planning application made no reference to the building being on the local list.”

When one complainant, Mrs B queried the lack of reference to the building being listed as of local interest,

“a senior officer told her it was not. As is evident from the Council’s website, [the property] is on the local list. The Council accepts the case officer was wrong about the house not being on its local list and its senior officer was wrong when he wrote to Mrs B telling her she

was mistaken.... It explains a constraints map relied on by the case officer failed to identify the terrace as on the list of Buildings of Local Interest, an error which it has now put right.”

4. How the Council responded to the complaints.

The Ombudsman’s decision letter summarised the action taken by the Council. It says:

“Apart from its failure to deal with the application site as a Building of Local Interest, there is no evidence of fault with the rest of the process. When it realised its mistake, the Council volunteered the following action without prompting from our office:

- It wrote a letter of apology to [both complainants] and offered [them] a small compensation payment in recognition of the time and trouble to which it had put [them] by overlooking the protected status of the properties.
- It took a report to Members explaining the error it had made and how this may have affected the decision. It asked Members to decide if the permission should stand or not.
- It reviewed its procedures (and will monitor the outcome of the review) to ensure it identifies buildings on the list of Buildings of Local Interest at an early stage in the planning process.”

There has been a full investigation of the complaint and a number of internal actions have been implemented as a result. Specifically:

The planning computer system and associated procedures relating to the automated flagging up of the status of Buildings of Local Interest (BLI) at the time that new planning applications are registered has been reviewed. . Changes have been made to the database and internal processes and procedures to avoid this designation being missed in future. All planning case officers have been briefed on the matters raised by the complaint and the changes that have been made to the planning computer system as a result. A single definitive list is now kept of BLI’s that is used to update all other records including the website.

Planning case officers have been reminded of the responsibility to check matters raised at the neighbour consultation stage of planning applications to ensure that committee recommendations are based upon accurate, up-to-date information.

The applicant also received an apology from the Head of Planning Services as they were unable to implement their planning permission until the issue of revocation was considered formally by the council.

5. Conclusion.

The Council made an error in respect of its consideration of this planning application. It has taken the steps set out to offer redress and to avoid this happening again. The Ombudsman's view is that the Council has done everything reasonable to put the error right and has found no other fault with the process,

6. Implications

- (a) **Financial Implications.** The Council has made small compensation payments to the two complainants in recognition of the time and trouble to which they had been put.
- (b) **Staffing Implications.** All planning case officers have been briefed on the matters raised by the complaint.
- (c) **Equal Opportunities Implications.** An equality impact assessment has not been carried out in respect of this report. The complaints raised an issue about the Council's consideration of the application and applicant's personal circumstances. The Ombudsman did not accept this aspect of the complaints.
- (d) **Environmental Implications.** This report has no climate change impact.
- (e) **Procurement.** There are no procurement implications.
- (f) **Consultation and communication.** The Monitoring Officer is obliged to consult the Head of Paid Service (Chief Executive) and the Chief Finance Officer (Head of Finance) in preparing this report, and has done so.
- (g) **Community Safety.** There are no community safety implications.

7. Background papers

These background papers were used in the preparation of this report:

The Ombudsman decision letters are appended to this report.

The report to Planning Committee on 6 August 2014 titled: "Development at 14 Victoria Street Cambridge (Planning permission ref: c/14/0342/ful): Consideration of revocation of planning permission."

8. Appendices

Local Government Ombudsman decision letters.

9. Inspection of papers

To inspect the background papers or if you have a query on the report please contact:

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