

## CAMBRIDGE CITY COUNCIL

---

REPORT OF: Director of Planning and Environment

TO: Planning Committee

05/07/2017

WARDS: All

### **LOCAL GOVERNMENT OMBUDSMAN (LGO) COMPLAINT REFERENCE 16 004 091**

---

#### **1 INTRODUCTION**

1.1 The LGO has upheld a complaint relating to the determination of a planning application for two storey side extension and part two storey part single storey rear extension (following demolition of garage). The LGO found that the failures identified amounted to 'injustice'. A copy of the LGO decision is attached (Appendix A).

1.2 In summary the Ombudsman's final decision was as follows:

There were failings in the way the Council considered a planning application for an extension to the complainants' neighbour's property. The Council has agreed to take action to remedy the complainants' injustice.

#### **2. RECOMMENDATIONS**

2.1 To note that the LGO has upheld a complaint relating to the determination of a planning application.

2.2 To note that in these circumstances the Head of Legal Services as the Council's Monitoring Officer has an obligation to report the findings to Council and that Committee is satisfied with the action that has been taken (set out in Section 4 of the report).

#### **3. THE COMPLAINT AND THE LGO INVESTIGATION**

3.1 The neighbours complained about inaccuracies and omissions in the case officer's report to Planning Committee. The findings of the LGO can be summarised under the following headings:

- The case officer's summary of objections made by the neighbours to the planning application
- Consideration of overlooking and loss of privacy from proposed balcony
- Consideration of overshadowing from proposed extension
- Errors in the drawing pack submitted to Planning Committee
- Accuracy of drawing requested by the case officer to demonstrate how the extension would affect the outlook from the neighbours property and measurement of distance between the distance between the shared boundary and the side elevation of the extension
- Approval of three dimensional perspective plan showing louvre screen/lack of request for amended plan or inclusion of planning condition
- Distinction between approved drawings and indicative/illustrative material/Council's offer of 'time and trouble' payment

I have used this summary to set out details of the complaint and the LGO decision below.

The case officer's summary of objections made by the neighbours to the planning application

3.2 The LGO regards the key objections of the neighbours to be related to overlooking/loss of privacy, overshadowing and the scale and bulk of the development leading to a sense of enclosure. She acknowledges that the case officer's includes consideration of these key objections and that it does not specifically address every point made by the neighbours as it would not have been practical to do so.

Consideration of overlooking and loss of privacy from proposed balcony

- 3.3 In relation to overlooking and loss of privacy from the proposed balcony the LGO notes that the case officer's report goes into some detail about the impact on the neighbours garden and bedroom. The LGO also noted that officers had asked the developer to include a louvre screen to the side of the rear facing balcony and that they were satisfied that the views from the balcony would, as a consequence of the screen, be oblique and would not allow direct overlooking. She also recorded that officers recommended obscured glazing to a first floor window but considered that obscure glazing to a velux window was not necessary. The LGO concludes that the Council properly considered the concerns raised by the neighbours about loss of privacy to their garden and bedroom from the rear facing balcony, side facing window and velux window.
- 3.4 The LGO did however find fault in the way in which officers assessed the impact of another part of the proposed balcony where no screening was to be provided. She noted that the case officer's report did not analyse the impact of this part of the balcony and did not mention the neighbours' concerns about loss of privacy from their living room. The LGO considers that there will be a direct line of sight from part of the balcony into the living room and garden room next door.

#### Consideration of overshadowing from proposed extension

- 3.5 The neighbours considered that the Council should not have relied on a sun study submitted by the developer. However the LGO considered that officers had sufficient information to be able to reach a view about the overshadowing created by the extension. She did not find any evidence of fault in the way in which the decision that there was insufficient overshadowing to justify refusal of the application had been reached.

#### Errors in the drawing pack submitted to Planning Committee

- 3.6 There were a number of errors on material in the drawing pack. One elevation did not include a window facing the neighbours' house, existing and proposed plans were mislabelled, some windows were incorrectly labelled on perspective views and the balcony was missing on one view. The LGO is satisfied that the case officer drew the attention of the Committee to these errors and that they did not affect the Council's decision to grant planning permission.

#### Accuracy of drawing requested by the case officer to demonstrate how the extension would affect the outlook from the neighbours

property and measurement of distance between the distance between the shared boundary and the side elevation of the extension

- 3.7 The LGO finds fault with two pieces of inaccurate information that were presented to the Committee. First it has been demonstrated to the LGO that the drawing produced by the architect to show the impact of the extension on the neighbours' outlook was not accurate and incorrectly shows the distance between the extension and the boundary as 2 metres. She considered that this drawing should not have been included in the drawing pack because it had the potential to mislead the Committee.
- 3.8 Secondly the LGO finds fault on the basis that the officer's report incorrectly states the distance between the extension and the boundary as 2 metres when this distance was later found to be 1.4 metres. The LGO concludes that, on balance, the Council would have granted planning permission if the impact drawing had not been included in the drawing pack and the officer's report had stated the correct separation distance.

Approval of three dimensional perspective plan showing louvre screen/lack of request for amended plan or inclusion of planning condition

- 3.9 The LGO notes that the Council has apologised for the fact that a three dimensional perspective view was listed as an approved plan on the decision notice. Officers accept that an amended elevation showing the louvre details should have been sought before planning permission was granted. The LGO acknowledges that the neighbours were concerned that the design of the louvre screen is such that it will not protect their privacy. She finds fault with the fact that there is nothing to suggest that the Council considered these concerns before it granted planning permission.

Distinction between approved drawings and indicative/illustrative material/Council's offer of 'time and trouble' payment

- 3.10 The LGO acknowledges that the Council has admitted that the proposal section of the officer report should have been more explicit in setting out exactly which drawings were being considered for approval and which had been submitted as indicative or illustrative material.

3.11 The LGO notes that the Council has apologised to the neighbours and offered to pay them £100 for the time and trouble in making their objections clear. However her view is that the neighbours were not put to time and trouble for making their objections clear as a result of the officer report because reports are written after objections have been received.

#### 4 LGO AGREED ACTION AND FINAL DECISION

Additional screen to section of balcony facing the neighbours' property

4.1 During the course of the LGO investigation the LGO asked officers to seek the developer's agreement to add a screen to the section of the balcony which was not originally intended to be screened for the reasons set out in paragraph 3.4 above. The developer has agreed to provide an additional screen in the area requested by the LGO (see plan at Appendix B (location of additional screen indicated by yellow stars)).

4.2 The LGO recommends the following action:

- a) It is noted that the Council has obtained the developer's agreement to add a screen to the section of balcony facing the neighbours' property.
- b) Planning case officers to be reminded of the need to ensure that plans are checked for accuracy before planning applications are determined and to seek clarification if submitted plans are vague or imprecise.
- c) The Council will also apologise to Mr and Mrs B for the failings identified in this case. It will make a payment of £500 to Mr and Mrs B to recognise the time and trouble they have been put to pursuing their complaint and for the uncertainty they have been left with as to whether the outcome would be any different if there had been no fault. The Council will take this action within four weeks.

4.2 Officers have been reminded of the need to ensure plans are accurate and seek clarification if this is not the case.

4.3 A written apology has been sent from the Director of Planning and Environment and the sums recommended by the LGO have been paid to the neighbours.

4.4 Since the LGO decision was received, officers have actively pursued the submission of details of the additional screen. At the time of writing this report a site meeting is due to be held at the end of June to discuss potential options for the screen. When this information is received it will be placed on the Public Access pages of the Council's website and the complainant will be alerted to their availability. There will be an opportunity for the complainant to make comments about the additional screen but the final decision on the screen details lies with the Council.

## 5 IMPLICATIONS

- (a) **Financial Implications** The LGO has recommended the payment of any compensation which has been met from the Planning Services budget.
- (b) **Staffing Implications** Planning officers have been briefed about the outcome of the investigations by the ICI and LGO.
- (c) **Equality and Poverty Implications** An equality impact assessment has not been carried out in respect of this report.
- (d) **Environmental Implications** This report has no climate change impact.
- (e) **Procurement** There are no procurement implications.
- (f) **Consultation and communication** No consultations were necessary to prepare this report.
- (g) **Community Safety** No direct or indirect community safety implications.

**BACKGROUND PAPERS:** The following are the background papers that were used in the preparation of this report:

LGO final decision (10 April 2017)

To inspect these documents contact Sarah Dyer on extension 7153.

The author and contact officer for queries on the report is Sarah Dyer on extension 7153.

Report file:

Date originated: 04 July 2017

Date of last revision: 04 July 2017