

## CAMBRIDGE CITY COUNCIL

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REPORT OF: Director of Planning and Environment

TO: Planning Committee  
WARDS:All

06/02/2019

### **LOCAL GOVERNMENT OMBUDSMAN (LGO) COMPLAINT REFERENCE 17 003 486**

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#### **1 INTRODUCTION**

- 1.1 The LGO has upheld a complaint relating to the Council referencing the wrong plans on the decision notice to a planning permission. A copy of the LGO decision is attached (Appendix A).
- 1.2 In summary the Ombudsman's final decision was as follows:

The Council should have referenced revised plans submitted in association with a planning application. These plans indicated a transfer of land from the application site to the complainant, for the purpose of enlarging their existing garden. The Ombudsman recognised the complainant's strong feeling of injustice due to the Council's actions and that referencing the wrong plans was a significant administrative fault. The Ombudsman accordingly found injustice in the time and trouble taken by the complainant in pursuing their complaint.

#### **2. RECOMMENDATIONS**

- 2.1 To note that the LGO has upheld a complaint relating to a private property.
- 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 complainant lives in a terraced house with a small courtyard to the rear. A business previously ran from the property next door within a range of outbuildings in the rear garden. The neighbour had previously made an application to develop that property including a block of flats to replace the outbuildings.

In 2014 the Council received an application for development of the neighbouring property following refusal of an earlier application. This proposal comprised building a block of four flats in the garden of that house. The applicant offered to engage with the immediate neighbours to see if they could achieve a compromise about the overshadowing issues that had been a concern in the earlier application.

The Planning Committee considered the application in September 2014 and January 2015. The plans considered by the Committee showed the enlargement of the complainant's garden through a suggested transfer of land from the applicant to the complainant. The officer's Committee report commented that the increase in the size of the complainant's garden would help to overcome the sense of enclosure – one of the complainant's concerns. The Committee approved the application. By 2016 the developer had not commenced building works. A non material amendment was sought to the approved plans. This application included plans which did not show the land transfer. The application was approved by the Council.

In March 2017 the developer need to amend the application to include a meter cupboard and because of an "alteration of boundary to facilitate the transfer of land to (the complainant's house). The complainant objected to the application as the wrong plans were attached to the planning permission and the developer was only seeking to transfer 1.5 m of land. The complainant lodged a complaint with the Council which was investigated.

In July 2017 the Council's Planning Committee considered the new application. The officer's report noted the errors with the referencing of the plans; a Councillor objected to the application as the meter cupboard took up some of the land which the developer had earlier agreed to transfer; and there were no reasonable grounds for linking the development to the provision of the extra land. The Committee approved the new application.

The complainant then lodged a complaint with the LGO.

The findings of the LGO are attached and can be summarised as follows: The referencing of the wrong plans is a significant administrative error

3.2 The LGO noted that the Council had accepted fault in the way that the wrong plans were referenced in its decision notices for the development next door to the complainant.

The LGO agreed with the complainant that it was likely the Committee granted planning permission with reference to the amended plans showing the two metres of land to be transferred to the complainant. However the LGO also stated that, it does not mean that without the transfer of land, the Committee would not have granted permission. It has to be taken into account that ownership of land is not a material planning consideration and should have played little part in the decision making process.

The LGO noted that any possibility of enforcement action if the correct plans had been referenced would have to be proportionate to the breach. On the basis that the ownership of land is not a material consideration, the LGO considered that the Council would not have concluded it expedient to take enforcement action.

The Complainant suffered injustice in terms of time and trouble.

3.3 The LGO recognised the complainant's strong sense of injustice and recognised that the Council's previous offer of a £500 remedy was in line with the Ombudsman's remedies guidance. This amount addressed the time and trouble that the complainant had taken in making the complainant.

#### **4 LGO AGREED ACTION AND FINAL DECISION**

4.1 The LGO recommends the following action:

The Council pays the complainant £500 to acknowledge the faults causing injustice identified above.

4.2 The LGO final decision:

There was fault by the Council, which caused injustice in terms of time and trouble to the complainant. The LGO considers the complaint resolved and the investigation is complete.

## 5 IMPLICATIONS

- (a) **Financial Implications** The LGO has recommended the payment of compensation. In July 2018 the Planning Service paid the complainant £500 and this has been met from the Planning Services budget
- (b) **Staffing Implications** 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 (20<sup>th</sup> July 2018)

Report file:

Date originated: 22 January 2019

Date of last revision: 22 January 2019