
20. LOCAL GOVERNMENT OMBUDSMAN COMPLAINT (C355/JRS)

Purpose of the report

1. This report informs Members of a complaint which has now been dealt with by the Local Government Ombudsman in respect of a case in Rowsley. The matter was considered by the Audit Resources and Performance Committee on 6 November 2015. At that meeting it was agreed that at this stage a short report would be provided for Planning Committee, but that a micro-scrutiny review panel be set up to consider the lessons to be learned from this case. The micro-scrutiny panel would comprise the following Members:

- Chair of Audit, Resources and Performance (Cllr Andrew McCloy)
- Vice Chair of Audit, Resources and Performance (Cllr Chris Furness)
- Chair of Planning (Paul Ancell)
- Emma Sayer
- One other Member of the Planning Committee

The Chair of Planning approached Cllr Caroline Howe to fill this last place and she has agreed. The panel is currently trying to arrange to meet either in December or early January. They will be assisted by the appropriate officers, including the Director of Conservation & Planning. The expectation is that the panel will meet and review the lessons to be learned from this case by considering the practicalities and process of consulting on planning applications and judging the impact of developments on neighbours.

Recommendation:

That the report be noted.

Background

3. The background to this case was set out in full in the Audit, Resources and Performance Committee report on 6 November so only a summary is provided in this report.

Local Government Ombudsman has investigated this case and the Investigator came to the decision that there had been fault by the Authority due to the failure of the Authority to consider material planning considerations and to apply its own planning policies or consider separation distances and the overbearing impact on a neighbouring property when granting planning permission for an extension. The concerns of the complainant initially arose through a failure to consult them directly on an application for an extension to the neighbouring property in 2012. The application was publicised through a standard yellow site notice, but the neighbour was not directly consulted.

Having found fault, the Investigator agreed that an extension of some form would have been acceptable, but not the approved extension. The Investigator therefore asked the Authority to commission the District Valuer to assess the diminution in value of the property, assessing the difference in value between a scheme that would have been acceptable and the scheme as approved and now substantially built. The District Valuer has now done this and has concluded that the difference is £35,000; the complainant had said that the diminution in value was £90,000–£100,000.

4. The recommended actions set out in the Ombudsman's final letter are set out below:

Recommended action

79. The Authority should:

- apologise to Mr and Mrs T for granting planning permission for a neighbouring extension without applying its own planning policies and without giving them an opportunity to raise concerns;
- pay Mr and Mrs T £35,000;
- ensure staff responsible for approving planning applications check whether adjacent properties are likely to be affected and apply planning policies consistently.

5. The Audit, Resources and Performance Committee agreed that the Authority should abide by these recommendations and resolved:

1. **To authorise arrangements to pay the diminution in value of a complainant's property following the 'before' and 'after' valuation of £35,000 in settlement of a Local Government Ombudsman case.**
2. **To appoint a Micro Scrutiny Review Panel to consider the lessons learnt from the complaint.**
3. **The following Members were appointed to the Micro Scrutiny Review Panel:**
Chair of Audit, Resources and Performance Committee – Cllr A McCloy
Vice Chair of Audit, Resources and Performance Committee – Cllr C Furness
Mrs E Sayer
Chair of Planning Committee – Mr P Ancell
One other Member of the Planning Committee to be identified by the Chair of Planning Committee.
4. **That attendance at Micro Scrutiny Review Panel meetings be approved duties for the payment of travel and subsistence allowances.**

6. A full report will be brought to Audit, Resources and Performance Committee once the micro-scrutiny panel has considered the issues it has been asked to look at.

Are there any corporate implications members should be concerned about?

7. Financial: The diminution in value of £35,000 will be funded from the Planning Services budget, which will also meet the Planning Consultant's and the District Valuer's fees.
8. Risk Management: There is a risk that the complainant will remain dissatisfied but the Authority will have responded to resolve the complaint in a reasonable way as judged by the Local Government Ombudsman.
9. Sustainability: No issues to highlight.
10. Background papers (not previously published) – Local Government Ombudsman's decision dated 19 October 2015
11. Appendices – None
12. **Report Author, Job Title and Publication Date**

John Scott, Director of Conservation & Planning, 3 December 2015