

Report for: Planning Sub-Committee 5 October 2015

Item number:

Title: Connaught House Ombudsman Decision

Report authorised by : Stephen Kelly, AD Planning

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Ward(s) affected: N/A

**Report for Key/
Non Key Decision:** Report for Noting

1. Describe the issue under consideration

The receipt and consideration of an Ombudsman's report into a complaint made and the Planning Officers' response thereto.

2. Recommendations

Planning Sub-Committee is recommended to:

Note the Ombudsman's report;

Note the Planning Officers' apology to the Complainant;

Note that the Planning Officers will write to the Complainant in this regard; and

Accept the Planning Officers' apology to the Sub-Committee.

3. Reasons for decision

The decision of the Ombudsman is accepted and a requirement of the decision was for the matter to be reported to the Planning Sub-Committee.

4. Alternative options considered

Rejecting the Ombudsman's decision. This option is for obvious reasons not pursued.

5. Background information

On 11 July 2015 a planning application was submitted for:

Refurbishment and reconfiguration of existing building including the erection of extensions to the south and west elevations; erection of a one storey roof

extension across the top of the existing building; provision of eight additional flats; and alterations to existing parking area.

The formal consultation on the application ended on 15 August 2015.

The application was reported to the planning committee for determination on 7 October 2014. The recommendation to the planning committee was that the application be approved, subject to conditions.

On 3rd October 2014 the planning committee undertook a site visit to view the property. On 7th October 2014 the application was considered by the planning committee. In accordance with the planning protocol, verbal submissions were made by 2 parties opposing the development.

A resolution to grant planning permission was passed at Planning Committee on 7 October 2014. The planning permission was issued on 31 October 2015.

6. Corporate Complaint

Following the grant of planning permission, the Council received a complaint from a local resident concerning the way in which the officer's report had been prepared. In disagreeing with the recommendation prepared by officers, the complainant made specific reference, amongst other matters, to the applicant's incorrect assessment of the density of development contained within their application and the failure of the Planning service to respond to the matter or address this specific matter in the report to the Planning Committee.

The Council's response to the complaint was that:

The matter of the density matrix (and hence the calculation of development density) was not the most effective or primary determinant of the acceptability of the proposals in this case – which were to extend an existing property.

That the assessment of the merits of the proposals was undertaken by specific reference to site circumstances and the careful consideration of the merits of the scheme.

That the failure to correct the applicant's incorrect statement around the density of the development did not amount to a serious oversight and did not impact upon the recommendation.

That members of the planning committee undertook a site visit prior to the decision being taken and were able to assess the merits of the proposals for themselves.

7. Complaint to LGO

The complainant was not satisfied with the Council's explanation provided through the corporate complaint process and submitted their complaint to the Local Government Ombudsman. The complaint comprised the following elements:

- the Council failed to ask the applicant for enough information (such as photo montages & 3D images) to enable an informed decision about the impact the proposal would have on surrounding properties;
- the Council overlooked the fact that the applicant's density assessment incorrectly took account of an adjoining site;
- the transport and parking assessments were flawed;
- Committee members were not given enough information about separation distances between the proposed and existing properties; and
- Council policies were ignored.

Following an investigation of the above including a telephone conversation with the Head of Development Management and a review of all documentation the Ombudsman concluded that in respect of points 1, 3, 4 and 5, the Council was not at fault.

In respect of point 2, the Ombudsman concluded that:

"The Council was at fault for failing to tell Members of its Planning Committee that a planning application, for which it was recommending approval, was contrary to the Local Development Plan, although officers considered there were reasons to make an exception. It was also at fault for trying to justify its mistake by suggesting, because there was already a building on the site, the policy did not apply. The Council should write to apologise to the complainant and it should formally apologise to Members of its Planning Committee for not having drawn all the material information to their notice. It should do this in public at the beginning of the next available planning meeting and the complainant should be invited to witness this apology."

The Ombudsman made the decision on 28 August 2015 which was communicated to the Planning Service on 4 September 2015.

8. Officers' response

The Council and the Local Planning Authority takes seriously its obligations to provide a clear and comprehensive report to members on all planning matters. It recognises the important role that reports play in demonstrating the rigour that is applied to applications and in facilitating and building trust and dialogue with members and the community at large. In this case, the Ombudsman has concluded that the report to the planning Committee of the Local Planning Authority insofar as it did not engage with

the representations and policy surrounding the London Plan Density matrix was incomplete, and that this failure led to injustice to the complainant.

In recognising and accepting the Ombudsman's conclusions, officers have committed to review the way in which the planning officer reports reflect London Plan density Matrix in all relevant cases. Officers also deeply regret the effect that the omission from the report of the density matrix information, or any discussion on this matter, has had on perceptions by our community of the integrity of the assessment process that was carried out in this case. Whilst the Ombudsman was satisfied that the outcome of any assessment would have been the same they have determined that officers should apologise to the Complainant, and to the Committee for this oversight in the report.

Given the high standards that the service is seeking to achieve and the findings of the Ombudsman in respect of point 2 above, this report seeks to recognise and **apologise** to both members and the complainant for the fault found by the Ombudsman's investigation. The service has reflected upon the investigation and sought to identify lessons learnt. The service remains committed to the highest possible standards of reporting and acknowledges that the Ombudsman's finding in this case was that this was not reached.

9. Statutory Officers comments (Chief Finance Officer (including procurement), Assistant Director of Corporate Governance, Equalities)

The Assistant Director of Corporate Guidance has been consulted on the preparation of this report and has no further comment to make.

10. Use of Appendices

Appendix A: Ombudsman decision dated 28 August 2015.

11. Local Government (Access to Information) Act 1985

The following documents have been used in the preparation of this report:
Ombudsman decision dated 28 August 2015.