

Performance and Audit Scrutiny Committee



St Edmundsbury
BOROUGH COUNCIL

Title of Report:	Decision relating to complaint to Local Government Ombudsman	
Report No:	PAS/SE/16/022	
Report to and date:	Performance and Audit Scrutiny Committee	21 September 2016
Portfolio holder:	Alaric Pugh Portfolio Holder for Planning and Growth Tel: 07930460899 Email: alaric.pugh@stedsbc.gov.uk	
Lead officer:	Steven Wood Head of Planning and Growth Tel: 01284 757306 Email: steven.wood@westsuffolk.gov.uk	
Purpose of report:	To inform the Committee of the details of a complaint the Local Government Ombudsman received in relation to the Local Planning Authorities decision not to re-consult on an application for a rear extension.	
Recommendation:	<p>Performance and Audit Scrutiny Committee:</p> <p>It is <u>RECOMMENDED</u> that:</p> <p>The Committee <u>note</u> the action taken by the Head of Planning and Growth to remedy the findings of the Local Government Ombudsman following a complaint made to him in relation to the Planning Authority's lack of re-consultation in relating to a rear extension adjacent to the complainants property.</p>	

Key Decision: <i>(Check the appropriate box and delete all those that do not apply.)</i>		<i>Is this a Key Decision and, if so, under which definition?</i> Yes, it is a Key Decision - <input type="checkbox"/> No, it is not a Key Decision - <input checked="" type="checkbox"/>	
Consultation:		Local Government Ombudsman	
Alternative option(s):		<ul style="list-style-type: none"> • Do nothing. • Accept the findings of the Local Government Ombudsman (LGO). 	
Implications:			
<i>Are there any financial implications? If yes, please give details</i>		Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> • The budget of £500	
<i>Are there any staffing implications? If yes, please give details</i>		Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> • Internal resources dealing with the complaint.	
<i>Are there any ICT implications? If yes, please give details</i>		Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> •	
<i>Are there any legal and/or policy implications? If yes, please give details</i>		Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> • Providing advice on the options and actions being considered	
<i>Are there any equality implications? If yes, please give details</i>		Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> •	
Risk/opportunity assessment:		<i>(potential hazards or opportunities affecting corporate, service or project objectives)</i>	
Risk area	Inherent level of risk (before controls)	Controls	Residual risk (after controls)
Not to comply with the LGO suggest remedy	High	Comply with the LGO remedy	Low
Reputational Challenge	High	Comply with the LGO remedy	Low
Wards affected:		All	
Background papers:		Local Government Ombudsman Complaint reference: 16 001 647	
Documents attached:		None	

1. Key issues and reasons for recommendation

1.1 Summary of the Complaint

- 1.1.1 In October 2015, Ms A's next door neighbour submitted a planning application to build a two storeys and single storey rear extension. At the beginning of November Ms A responded to the neighbour notification letter she had received by telling the Council that while she did not object to the application she did have concerns about how close the single storey extension would be to her property as her air source heating unit is located close to the boundary.
- 1.1.2 At the end of November 2015, the Council as Planning Authority wrote to the neighbour's agent to advise that it would be unable to approve the application because of concerns about its impact on Ms A's property, and the property on the other side. In relation to Ms A's property, the Council noted that the extensions would lead to a material adverse impact upon amenity due to their overbearing appearance and general loss of light, exacerbated by the depth of the proposed development of 6.3m. To address this, the case officer at the time suggested a cutting back of the first floor element of the two storeys extension.
- 1.1.3 The Council gave the agent 14 days for amended plans to be provided and said it would take a further 21 days to decide whether it would be necessary to re-consult. Amended plans were then submitted to the Council in December 2015, which showed a reduction in the length of the two storey element from 6.3m to 3.8m and an increase in the footprint of the single storey extension with an increase along the boundary with Ms A's property from 3.3m to 6.3m.
- 1.1.4 The Council did not re-consult with neighbours and permission was granted for the amended application under delegated powers. Ms A complained to the Council that, given the nature of the changes to the application, it should have consulted her about them and that by not doing so she had lost the opportunity to comment on them or to discuss the changes with her neighbour.
- 1.1.5 The Council upheld Ms A's complaint and accepted it should have given her the opportunity to comment on the amended plans because of the extent of the amendments to the proposed development. The Council apologised for its error and told Ms A it had taken action to brief planning officers dealing with applications to avoid such an error in the future. However, it satisfied itself that the decision to approve the application was correct and explained to her why it would not have changed even if Ms A had been given the opportunity to make her further representations.

2. Ombudsman's Decision

- 1.2.1 The LGO accepted that the Council's fault was not in dispute. The Council had already admitted that it should have re-consulted with Ms A and it did not do so. In responding to Ms A's complaint under the Council's own complaints procedure, the Council recognised she had been inconvenienced as a result of its failure to re-consult and that this may have caused her stress. The Council accordingly apologised and reassessed the application to see, even if Ms A had commented further on the amended plans, whether this would have led to a

different outcome and it concluded it would not have.

- 1.2.2 The LGO felt ,while the Council did carry out a reassessment , Ms A lost the opportunity to comment and she is now left with the uncertainty of not knowing whether, had she been notified and had the chance to speak to her neighbour, the plans for the development would have been modified to take into account her concerns.

3. Agreed Remedy

- 1.3.1 In recognition of the Council's fault, and the injustice this caused Ms A, the LGO proposed to the Council that it pay Ms A £500 to settle her complaint.
- 1.3.2 In reviewing the LGO findings the Head of Planning and Growth accepted the findings and agreed to pay Ms A £500 accordingly.