

# Performance and Audit Scrutiny Committee



Forest Heath  
District Council

<b>Title of Report:</b>	<b>Local Government Ombudsman Decision</b>	
<b>Report No:</b>	<b>PAS/FH/19/009</b>	
<b>Report to and date:</b>	<b>Performance and Audit Scrutiny Committee</b>	31 January 2019
<b>Portfolio holder:</b>	Councillor Lance Stanbury Portfolio Holder for Planning and Growth <b>Tel:</b> 07970 947704 <b>Email:</b> <a href="mailto:lance.stanbury@forest-heath.gov.uk">lance.stanbury@forest-heath.gov.uk</a>	
<b>Lead officer:</b>	David Collinson Assistant Director (Planning and Regulatory Services) <b>Tel:</b> 01284 757306 <b>Email:</b> <a href="mailto:david.collinson@westsuffolk.gov.uk">david.collinson@westsuffolk.gov.uk</a>	
<b>Purpose of report:</b>	To inform the Committee of the details of a complaint the Local Government Ombudsman received in relation to the Local Planning Authority's lack of consultation in relation to the construction of two bungalows to the rear of the complainants' property.	
<b>Recommendation:</b>	<b>Performance and Audit Scrutiny Committee:</b>  <b>It is <u>RECOMMENDED</u> that the Committee <u>note</u> the action taken by the Assistant Director (Planning and Regulatory Services) to remedy the findings of the Local Government Ombudsman, following a complaint made to him in relation to the Planning Authority's lack of consultation in relation to the construction of two bungalows to the rear of the complainants' property.</b>	

<b>Key Decision:</b> <i>(Check the appropriate box and delete all those that <b>do not</b> 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"/>	
<b>Consultation:</b>		Local Government Ombudsman	
<b>Alternative option(s):</b>		<ul style="list-style-type: none"> <li>Do nothing.</li> <li>Accept the findings of the Local Government Ombudsman (LGO).</li> </ul>	
<b>Implications:</b>			
<i>Are there any <b>financial</b> implications? If yes, please give details</i>		Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> • The budget of £300	
<i>Are there any <b>staffing</b> 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 <b>ICT</b> implications? If yes, please give details</i>		Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	
<i>Are there any <b>legal and/or policy</b> 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 <b>equality</b> implications? If yes, please give details</i>		Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	
<b>Risk/opportunity assessment:</b>		<i>(potential hazards or opportunities affecting corporate, service or project objectives)</i>	
<b>Risk area</b>	<b>Inherent level of risk</b> (before controls)	<b>Controls</b>	<b>Residual risk</b> (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
<b>Wards affected:</b>		Red Lodge	
<b>Background papers:</b>		Local Government Ombudsman Complaint reference: 18 009 162	
<b>Documents attached:</b>		None	

## **1. Key issues and reasons for recommendation**

### **1.1 Summary of the Complaint**

- 1.1.1 In 2017 the Council received a planning application to build two bungalows on land to the rear of Mr and Mrs X's property. The Council posted a site notice and sent letters to nearby properties to advertise the application.
- 1.1.2 The planning Case Officer visited the site and took photographs, the application was approved under delegated powers. The delegated report considered the impact on the street scene, the adjoining properties and the merits of the application, particularly in relation to compliance with the policies of the development plan and national planning policy and guidelines. Mr and Mrs X then became aware of the planning approval and complained to the Council that they had not been notified about the application and they had not seen the site notice. They complained that the bungalows would adversely affect the amenities and outlook from their property.
- 1.1.3 The Council dealt with Mr and Mrs X's complaint through stage one and two of the complaints procedure. The Council established that the complainants had not been notified of the application and explained that as their property was newly built, it did not yet show on the Council's GIS system which would trigger the targeted notification. In addition, the omission was not picked up by the case officer when he made his site visit.
- 1.1.4 Having investigated the complaint, the Council acknowledged this error, however was satisfied that the impact of the development on the complainants' property had been taken into account, as evidenced by site photographs and references in the officer report to the amenity of dwellings on the southern boundary of the site. Whilst the Council did not consider that the outcome of the application would have been any different, if the complainants had objected to it, the Council acknowledged the impact its failure to notify had on Mr and Mrs X and the lost opportunity to make representations. The Council offered Mr and Mrs X a £300 payment in compensation.

### **1.2 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 consulted with Mr and Mrs X and it did not do so. The LGO stated that this fault caused an injustice to Mr and Mrs X as they lost the opportunity to comment on the proposal and explain their concerns. The Council has apologised for its failure to notify and offered Mr and Mrs X £300 in compensation. The LGO considered this to be a suitable payment that would remedy the injustice caused over the loss of opportunity to comment.
- 1.2.2 The LGO concluded that even if Mr and Mrs X had sent objections the Council's decision to approve the application would have been the same. This is because the Council's documents show that the case officer was aware of the complainants' property and referred to it when assessing amenities. The LGO concluded there was no fault in the way the Council considered the planning application so there were no grounds for the Ombudsman to question the merits of the Council's decision.

1.2.3 The LGO also concluded that the Council's action of investigating and remedying the GIS system error which resulted in the lack of notification and action to ensure all case officers double check notifications when on site were suitable actions to take following the complaint.

### **1.3 Agreed Remedy**

1.3.1 In recognition of the Council's fault, and the injustice this caused Mr and Mrs X, the LGO proposed to the Council that it pay Mr and Mrs X £300 to settle their complaint.

1.3.2 In reviewing the LGO findings the Assistant Director (Planning and Regulatory Services) accepted the findings and agreed to pay Mr and Mrs X £300 accordingly. This payment has now been made.

1.3.3 Once the original complaint was received, Officers took immediate action to investigate and remedy the processes between our validation team and the GIS system to ensure that new properties would not be missed – this included cross checking with Council Tax records and more regular updates of the GIS system. Planning Officers were also reminded of the importance of cross-checking notification addresses on site.