

MEETING OF THE COUNCIL

20 JULY 2011

REPORT OF THE MONITORING OFFICER

REPORTING OF A FINDING OF 'MALADMINISTRATION' ARISING FROM AN OMBUDSMAN REPORT

1.0 PURPOSE OF REPORT

- 1.1 The purpose of this report is to consider an Ombudsman's report that concludes with a finding of maladministration and recommendations for mitigation, and to determine the response to this finding. The report relates to the determination of a planning application in July 2008 and the full Ombudsman's report is appended to this report as Appendix A.
- 1.2 The Ombudsman's recommendation for mitigation in respect of his finding is as follows:
- That a 'before and after' valuation be carried out on the complainants' property, this should ascertain the impact of the new dwelling on the complainants' property
 - The Council should pay the complainants any difference in value;
 - The Council should pay the complainants £500 for their time and trouble in pursuing their complaint.

2.0 RECOMMENDATIONS

- 2.1 **It is recommended that the Council complies with the Ombudsman recommendations as set out at section 1.2 of the report.**

3.0 KEY ISSUES

- 3.1 The Local Government Act 1974 provides for the Commissioner for Local Administration ('The Ombudsman') to investigate complaints made against Local Authorities, to report the findings and make any recommendations, including for mitigation in respect of findings of maladministration.
- 3.2 This investigation follows a complaint that was lodged in respect of the way in which a planning permission was granted by the Development Committee for an application in 2008. The Ombudsman has undertaken a thorough investigation, including a review of all documentation and interviews with Members and staff involved in the decision, prior to arriving at the conclusion described at 1.1 above, and the recommendations listed at 1.2.
- 3.3 Under the Council's constitution, it is required that such report and resultant recommendations are reported by the Monitoring Officer and considered by Full Council.
- 3.4 The Ombudsman's report and recommendations are reproduced in full at Appendix A. The specific conclusions of that report are as set out at pages 22-24.

4.0 POLICY AND CORPORATE IMPLICATIONS

The reports illustrates very strongly that decisions must be based on an objective evaluation of evidence which must be thorough and objective. The outcome of this investigation has featured in subsequent training for the Development Committee, including that provided for Members elected in 2011 and participating in planning decisions subsequently.

5.0 FINANCIAL AND OTHER RESOURCE IMPLICATIONS

5.1 The financial implications will be determined by the valuation exercise recommended by the ombudsman. Until it is undertaken it is unclear as to the value involved. There is no budget provision for such as award and provision will be required from Corporate Priority reserves when the valuation is completed.

6.0 LEGAL IMPLICATIONS/POWERS

6.1 If the Council does not accept the Ombudsman's recommendations, under s31 of the Local Government Act 1974 it may submit a counter-report to the Ombudsman explaining why the findings and recommendations are not accepted. The Ombudsman is then entitled to make a further report and require publication of his revised findings. The Council will be liable to pay the cost of these additional investigations and publicity.

7.0 COMMUNITY SAFETY

7.1 There are no specific community safety implications in this report.

8.0 EQUALITIES

8.1 There are no specific equalities issues implications in this report.

9.0 RISKS

9.1 The case demonstrated the inherent risks associated with determining planning applications and the requirement to ensure decisions are made on sound planning grounds supported by evidence.

9.2 In respect of risk directly related to the Ombudsman's findings and recommendation, the following risk profile has been identified:

Probability



Very High A				
High B			1	
Significant C		2		
Low D				
Very Low E				
Almost Impossible F				
	IV Neg- ligible	III Marg- inal	II Critical	I Catast- rophic

→
Impact

Risk No.	Description
1	Reputational Impact
2	Financial Impact

10.0 CLIMATE CHANGE

10.1 There are no climate change implications in this report.

11.0 CONSULTATION

11.1 There have been regular updates provided to the Development Committee and other Members referred to in the Ombudsman's report. The report has also been distributed to such Members.

12.0 WARDS AFFECTED

12.1 All wards are affected by this report.

Contact Officer: Head of Regulatory Services/Monitoring Officer

Date: 5 July 2011

Appendices : Appendix A - Ombudman's report 4, May 2011

Background Papers: Local Government Act 1974 s.23 - 34