

COUNCIL

19 MARCH 2024

REPORT OF THE MONITORING OFFICER

A.8 LOCAL GOVERNMENT AND SOCIAL CARE OMBUDSMAN FINDING

(Report prepared by Keith Simmons)

The Constitution (Article 12.03(a)) requires the Monitoring Officer to report to Council (or to Cabinet for executive functions) if any decision or omission has given rise to maladministration. This report concerns an omission that the Local Government and Social Ombudsman ('the Ombudsman') has determined was maladministration.

This report is also required under section 5 of the Local Government and Housing Act 1989 in view of the aforementioned decision in this matter by the Local Government and Social Care Ombudsman as is mentioned in Part 3 of the Local Government Act 1974. The Chief Executive and Section 151 Officer have been consulted in the preparation of this report.

The complaint concerned the way the Council handled a planning enforcement and anti-social behaviour report from a member of the public. The member of the public reported to the Council alleged breaches of planning control (and anti-social behaviour) which they said meant they could not use and enjoy their own property in the area concerned.

By way of background, Councils can take enforcement action if they find planning rules have been breached. However, councils should not take enforcement action just because there has been a breach of planning control. Planning enforcement is discretionary and formal action should happen only when it would be a proportionate response to the breach. When deciding whether to enforce, councils should consider the likely impact of harm to the public and whether they might grant approval if they were to receive an application for the development or use.

In this case, the Council received and acted on an initial report of planning breaches (and anti-social behaviour). This included meeting with the individual. A further communication from the individual was then not directly responded to by the Council in a timely way. The Council did though, across that time, undertake extensive works to establish the degree of the planning breach and to inform action on the reports received. Interaction with the landowner in respect of matters at the site concerned was also undertaken to address issues raised by the member of the public.

The non-response to the second communication referenced above was, the Ombudsman concluded, maladministration. The Ombudsman was satisfied that the member of the public concerned had suffered avoidable frustration and uncertainty during the period to date. The planning enforcement case is still open.

The Ombudsman identified the following as an acceptable remedy and the Council has agreed to this as a suitable remedy:

- a) Within one month to provide a written apology for the delay identified and it's planning enforcement investigation. *This has been done.*
- b) Within one month to make a symbolic payment of £250 to recognise the avoidable frustration and inconvenience caused. *The detail to facilitate this payment have been sought.*
- c) Decide if and what planning enforcement action is warranted and progress any action in a reasonable time. *Detailed further assessment work on the alleged planning breach has continued. It is envisaged, at this stage that the timeline for a decision*

as to whether enforcement action is lawful and warranted may be within the next several weeks.”

- d) Provide a monthly update to the member of the public about progress. *This is ongoing while the case is still live.*

This item is submitted for Council's consideration.

It is RECOMMENDED that Council ‘notes’ the report, including the progress with the agreed actions.