

# **Report of the Assistant City Solicitor/Assistant Director Planning to the meeting of the Area Planning Panel (Keighley & Shipley) to be held on 8 April 2015.**

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## **Subject:**

**Feedback from Ombudsman complaint reference 14 007 171**

## **Summary statement:**

**Members are asked to note and accept the recommendations of the Ombudsman relating to the failure of the Council to record its reasons for granting planning permission to change a pub into a place of worship.**

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## **Portfolio:**

**Housing, Planning & Transport**

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## **Overview & Scrutiny Area:**

**Environment and Waste Management**



## 1. SUMMARY

Members are asked to note and accept the recommendations of the Ombudsman relating to the failure of the Council to record its reasons for granting planning permission to change a pub into a place of worship. A copy of the Ombudsman's report is attached as an appendix to this report.

## 2. BACKGROUND

- 2.1 At its meeting of the 28 March 2013 the Bradford Area Planning Panel in respect of consideration of a planning application to change of use of the former Royal Hotel on Fagley Road, Bradford to a place of worship resolved as follows:

**Resolved –**

**That the application be approved for the following reason:**

**The proposed change of use to a place of worship (Use Class D1) has been assessed against Polices UR3, TM2, TM11, TM19 and TM19A of the Replacement Unitary Development Plan, the National Planning Policy Framework and in part assessed in terms of residential amenity, visual amenity and highway safety and is considered to be acceptable and also subject to the applicant entering into a Section 106 Agreement in relation to a Traffic Regulation Order, with all costs borne by the applicant.**

**And that the application be subject to the following conditions:**

- (i) Development be implemented within three years of the date of approval.**
- (ii) The proposed off street car park provision shall be laid out, hard surfaced, sealed and drained within the curtilage of the site and maintained as a car park whilst ever the use subsists.**

**And also that the following footnote be placed on the application:**

- (i) That the applicant is advised that in order to minimise noise and disturbance to residents, marshalling of car parking be provided at peak times i.e. Friday evenings and during Ramadan.**

- 2.2 Following a complaint by an objector to the way the application had been determined by the Panel against officers advice, the Ombudsman has confirmed a finding of fault by the Council in the following regards:

*“The Council failed to provide reasons for granting planning permission. This is fault.*

*Although the Council has said the development is acceptable “in terms of residential amenity, visual amenity and highway safety” it has not given the reasons why it has come to these conclusions. The Council is only required to provide summary reasons. However it is not enough simply state that the development complies with policies and is acceptable.*

*When I interviewed members of the Council's Planning Committee many were unable to remember why they had granted planning permission. Whilst I understand that some time has passed since the decision was made the Committee would be in a better position to explain its decision if the reasons had been properly recorded. Because of this I was given several different reasons why permission was granted. Some of these were not material planning considerations such as:*

- The use as a place of worship would not cause as much disturbance as takeaway premises (planning permission would be required to convert the building into a takeaway).*
- A place of worship has a positive impact on the community whereas a pub does not.*

*Members also gave weight to the applicant's offer of marshalling at busy times even though there was no way the Council could enforce this. Some members of the Committee thought this had been a condition rather than a footnote."*

2.3 Despite this finding of fault, the Ombudsman concluded that if the Panel had properly recorded valid material reasons for its decision, then it would still have been likely to grant planning permission. Therefore in the circumstances it would not be appropriate to take further action by way of compensation to the complainant at this stage.

2.4 As requested by the Ombudsman, the City Solicitor has apologised to the Complainant for the need to make the Complaint.

### **3. OTHER CONSIDERATIONS**

The Ombudsman is recommending that the Council:

- Writes to the complainant to apologise for the failure to provide adequate reasons for the decision
- Ensure that the Planning Panels/Committee records reasons for its decisions, especially when it goes against officer recommendations.

### **4. OPTIONS**

4.1 Members are advised to note and accept the Ombudsman's findings/recommendations.

4.2 Failure to accept and implement the Ombudsman's recommendations will lead to criticism of the Council in the public arena and possible future findings leading to financial penalties

### **5. FINANCIAL & RESOURCE APPRAISAL**

None.

**6. RISK MANAGEMENT AND GOVERNANCE ISSUES**

None

**7. LEGAL APPRAISAL**

The Ombudsman's report (attached as an appendix to this report) accurately sets out the legal position with regard to the need to give adequate reasons for planning decisions.

**8. OTHER IMPLICATIONS**

**8.1 EQUALITY & DIVERSITY**

None

**8.2 SUSTAINABILITY IMPLICATIONS**

None.

**8.3 GREENHOUSE GAS EMISSIONS IMPACTS**

None

**8.4 COMMUNITY SAFETY IMPLICATIONS**

None

**8.5 HUMAN RIGHTS ACT**

Recording adequate reasons for decisions will assist the Council as local planning authority that it has determined applications fairly and with regard to all material planning considerations

**8.6 TRADE UNION**

None

**8.7 WARD IMPLICATIONS**

None

**8.8 AREA COMMITTEE ACTION PLAN IMPLICATIONS  
(for reports to Area Committees only)**

None

**9. NOT FOR PUBLICATION DOCUMENTS**

None.

## **10. RECOMMENDATIONS**

- 10.1 That the Ombudsman's conclusions and recommendations in relation to Complaint number 14 007 171 be noted and implemented.
- 10.2 That the need to ensure that planning members (including alternates) give adequate reasons for decisions, particularly where they wish to go against officers advice, is reemphasised in the forthcoming members training programme.
- 10.3 That the Panel notes that the City Solicitor has apologised on behalf of the Council to the Complainant for the need to make the complaint.

## **11. APPENDICES**

Ombudsman's report

## **12. BACKGROUND DOCUMENTS**

Ombudsman's report  
Planning Application file