

SPSO decision report

Case: 201203766, The City of Edinburgh Council
Sector: local government
Subject: handling of application (complaints by opponents)
Outcome: upheld, recommendations

Summary

Mr and Mrs C complained about a proposal by the developer of an adjacent site to vary a planning consent. Planning officers had regarded the proposal to vary the consent previously issued (to convert a former school to a care home and construct an extension) as a non-material variation (a material variation is a genuine planning consideration related to the purpose of planning legislation, which is to regulate the development and use of land in the public interest). The officers approved it as a delegated decision without reference to the relevant council committee.

In dealing with the complaint, the council accepted that although the request to vary did not raise new planning issues, and more windows in the new extension would overlook Mr and Mrs C's rear garden, a corner of the extension had been brought forward 70 centimetres closer to the boundary than the council's published guidance. In that regard, the request to vary should not have been dealt with as a non-material variation. In light of the council's acceptance of their error, we upheld the complaint and made two recommendations.

Recommendations

We recommended that the council:

- review the criteria for non-material variation in their procedure note to include the previous history of objections to the assessment of any neighbour interest; and
- confirm that in respect of condition 9 of planning application A that the approved landscaping scheme has been fully implemented and that the additional screening alluded to, if not surviving, is replaced by suitable replacements at the council's expense.