

SPSO decision report

Case: 201508154, Aberdeenshire Council
Sector: local government
Subject: handling of application (complaints by opponents)
Outcome: upheld, recommendations

Summary

Mr and Mrs C raised concerns about the council's handling of various planning applications for a site, including their home. In particular, they said that certain applications failed to protect their home by ensuring that its floor level and that of its neighbour were built to a similar level. As a consequence of this, they said that the council failed to assess the impact of their neighbour's sun lounge on their amenity and privacy.

We made enquiries to the council who confirmed that they had since established that the levels of the properties concerned were not in accord with the applications granted and the houses were not built as envisaged. The difference in levels had led to Mr and Mrs C's property being overlooked.

We took independent planning advice and we found that one of the properties concerned was too high, whereas, the other was too low. The consequence of this was that overlooking of Mr and Mrs C's house was unavoidable. The council were largely responsible for this. Similarly, because the floor levels were incorrect, the council would not have been able to properly assess the impact of the neighbours' sun lounge on Mr and Mrs C's property. We upheld the complaint.

Recommendations

We recommended that the council:

- make a formal apology to recognise the situation;
- review the staff guidance notes to include the treatment of window alterations during the course of development as consent variations or as permitted development;
- make a formal apology for their inability to assess the impact of the sun lounge;
- be prepared to meet the costs of any agreed solution; and
- review staff guidance notes on planning application handling with regard to successive permissions issued for the same site; the consistency of conditions which require to be carried through from one permission to any future permission; consideration of site levels and especially any proposed changes for residential amenity and overlooking.