

## SPSO decision report

**Case:** 201608718, Fife Council  
**Sector:** local government  
**Subject:** handling of application (complaints by opponents)  
**Decision:** upheld, recommendations

### Summary

Mr C complained about the council's handling of a planning application for a two-storey extension, which had been submitted by his next door neighbour. Neighbour notifications had not been sent out, and Mr C only found out about the application after planning permission had been granted.

Mr C complained that a council case officer had failed to identify significant visual intrusion into his property from a balcony on the extension. The report of handling made no mention of the balcony, and the case officer had not retained any calculations on the file.

The council provided new calculations, which they said confirmed that the proposal was acceptable. However, in view of shortcomings in the way the application was handled, they agreed to contact the developer to request that the height of a privacy screen at the end of the balcony next to Mr C's property was increased, which was agreed and approved.

We took independent advice from a planning adviser. Although the council had drawn up new diagrams and calculations since Mr C complained to them, the adviser commented that their lack of detailed annotation was such that the adviser was unable to interpret them, so could not say whether the council's conclusion that the proposal was acceptable was reasonable. The adviser did not consider that the council had provided sufficient reason to justify the omission of the balcony from the report of handling, noting that the absence of the balcony was clearly significant in this case.

Although the report of handling gave some consideration to visual intrusion from the extension into Mr C's property, we considered the council's failure to consider the impact of the balcony in the report to be an unacceptable oversight. We therefore upheld this complaint.

Mr C also complained about the council's response to his complaint. He was dissatisfied that they had failed to address his concern about visual intrusion into his property through side windows, which had been omitted from their diagrams. He was also dissatisfied with the council's explanation as to why the overshadowing caused by the property was not a material consideration.

We found that the council's response could have been clearer in relation to some technical points. We also noted the adviser's comments that the lack of detailed annotation made it difficult to assess whether their response was reasonable. The council said it was clear that the case officer had assessed the distance from the balcony to Mr C's sun windows, with regard to the council's policy on home extensions, but given that the report of handling had overlooked the existence of the balcony altogether, and no calculations had been retained, we found this statement disingenuous.

We considered that the council's response to the complaint had been unreasonable. We therefore upheld this aspect of Mr C's complaint.

## Recommendations

What we asked the organisation to do in this case:

- Provide Mr C with a written apology for failing to reasonably evaluate the planning application with regards to the extent of the visual intrusion into his property and for unreasonably responding to Mr C's complaint. These apologies should comply with the SPSO guidelines on making an apology, available at [www.spsso.org.uk/leaflets-and-guidance](http://www.spsso.org.uk/leaflets-and-guidance).

What we said should change to put things right in future:

- Case officers should ensure that their reports are comprehensive, retaining all calculations on file for reference.

In relation to complaints handling, we recommended:

- Complaints handling staff should ensure that complaints responses adequately address all complaints. Where technical matters are being explained, care should be taken to ensure that these can be understood by a layperson.

We have asked the organisation to provide us with evidence that they have implemented the recommendations we have made on this case by the deadline we set.