

SPSO decision report

Case: 202007523, Aberdeenshire Council
Sector: Local Government
Subject: Handling of application (complaints by opponents)
Decision: upheld, recommendations

Summary

C submitted objections to an application for the erection of a house close to the boundary of their property on the grounds of overlooking. The council produced a report of handling which included their responses to C's concerns. The application was approved subject to conditions including a condition relating to the interests of C's residential amenity. When the development was begun, C was concerned that the overlooking issue remained. C contacted the council advising of their concerns and the council requested the relevant condition to require a fence to be erected along part of the boundary line. C raised complaints with the council highlighting specific concerns with the report. The council responded advising that they considered the report had given reasonable consideration to the matters raised.

We took independent advice from a planning adviser. C complained that the report contained material errors and grossly understated the extent to which their property would be overlooked. We found that certain key information was not included in the council's assessment of the potential for overlooking, that insufficient attention was given to the height difference between the two properties and the close proximity of C's property to the proposed house, and that the assessment of the existing vegetation and trees was inaccurate and that these could be considered a material error in the report. We found that available evidence should have highlighted to the council that there would be significant overlooking from the proposed house and that measures should have been taken to mitigate this either through conditions to retain the natural screening, or changes to the positioning of the proposed house. We also found that the requirement to build a fence was unlikely to address all of the overlooking issues. We found that overlooking from the proposed house was foreseeable and that the report failed to recognise this or to include measures to mitigate the impact on C's residential amenity. We upheld C's complaints.

Recommendations

What we asked the organisation to do in this case:

- Apologise to C that the Report of Handling contained material errors and failed to recognise the extent to which the proposed house would overlook C's property. The apology should meet the standards set out in the SPSO guidelines on apology available at www.spsso.org.uk/information-leaflets.
- Contact C with a view to discussing and implementing further measures to mitigate the overlooking from the proposed house.

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

- That the council review this case with their planning service and consider ways of improving the scrutiny of reports prior to their sign off.