

SPSO decision report

Case: 202106027, Aberdeen City Council
Sector: Local Government
Subject: Handling of application (complaints by opponents)
Decision: upheld, recommendations

Summary

C complained about the council's handling of a planning application. C's next door neighbour made a retrospective application for planning permission for the erection of a garden room/store and timber fencing to the boundary at the rear of the property. This followed an earlier enforcement enquiry in respect of the garden room structure being erected without the necessary permission in place.

C objected to the planning application through a solicitor on the basis that it constituted overdevelopment and would adversely impact neighbours' residential amenity and did not contribute towards quality place making. Planning permission was granted with no conditions attached.

We took independent advice from a planning specialist. We were satisfied that the assessment of the impact of the fence was an issue of discretion and that carrying out site visits and allowing additional comments/objections to the planning application were matters of planning judgement. Whilst we found that the council did reach the right planning decision, we considered that there had been a lack of clarity and explanation and that the council's calculations in relation to the coverage of rear curtilage in the Report of Handling were ambiguous and are not in line with the relevant guidance. On balance, we upheld the complaint.

Recommendations

What we asked the organisation to do in this case

Apologise to C for the issues identified. The apology should meet the standards set out in the SPSO guidelines on apology available at www.spsso.org.uk/information-leaflets

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

- Case officers should be aware of how to measure curtilage areas and calculate the proportion proposed to be built upon. The calculation should be clearly set out and a record made.

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.