

Scottish Parliament Region: West of Scotland

Case 200503098: Loch Lomond and The Trossachs National Park Authority

Summary of Investigation

Category

Local government: Planning; Processing of Application complaint by objectors

Overview

The complainants (Mr and Mrs C) complained that they had been misled into believing that a planning case officer from Loch Lomond and The Trossachs National Park Authority (the Park Authority) would visit them at their home to view the impact of their neighbours' proposed development. This did not happen and they were aggrieved to learn subsequently that consent had been granted by officers under delegated powers.

Specific complaint and conclusion

The complaint which has been investigated is that a planning case officer from the Park Authority failed to visit Mr and Mrs C at their home to discuss their concerns prior to their neighbours' planning application being determined (*not upheld*).

Redress and recommendation

The Ombudsman has no recommendation to make.

Main Investigation Report

Introduction

1. The complaint related to consideration of a planning application made to Loch Lomond and The Trossachs National Park Authority (the Park Authority). The complainants (Mr and Mrs C) complained that a planning case officer from the Park Authority failed to visit them at their home to discuss their concerns prior to their neighbours' planning application being determined.

2. The investigation has been based on information supplied by Mr and Mrs C and the response of the Park Authority to an enquiry. Not all the information received has been included in this report. I am satisfied that nothing of significance has been omitted. Both Mr and Mrs C and the Park Authority have had the opportunity to comment on a draft of the report.

Investigation

3. Mr and Mrs C live in Town B. In December 2005 their next door neighbours (Mr and Mrs A) applied for planning consent for a two storey rear extension and garage.

4. Mr and Mrs C viewed the application at the National Park Headquarters a mile distant from their home. At that visit, between Christmas 2005 and New Year, they say they spoke to a planning case officer (Officer 1) in the foyer and requested that the planning case officer visit them in their home to discuss Mr and Mrs A's proposals and their concerns. They say that Officer 1 assured them that a planning case officer would visit.

5. Officer 1's recollection of the meeting with Mr and Mrs C was that he did not give an assurance that an officer would arrange with them to meet on-site to discuss the proposal or their objections. He had, however, assured Mr and Mrs C that the impact of the proposed extension would be assessed from their property and point of view.

6. Mr and Mrs C submitted a letter of objection dated 30 December 2005 to their neighbours' proposals on grounds that the extension would substantially overshadow and reduce the natural sunlight in their back garden. Their view from

their kitchen window towards the west would be lost by the extent of the building and they would now look directly on to a wall. The view had already been reduced by the recent construction of a conservatory by neighbours on the other side of Mr and Mrs A. Mr and Mrs C commented that the construction of the new garage on the property boundary line would limit access for maintenance to the side of their timber garage. Mr and Mrs C asked that someone from the Park Authority contact them in order to discuss these issues. They heard nothing further.

7. The Park Authority's file records that on 26 January 2006 Officer 1 visited but found neither Mr and Mrs C or their neighbours at home. He made an assessment at that time of the impact of the development on Mr and Mrs C's property and the other properties adjoining the application site. He concluded that the nature of the proposal and the degree to which it could be expected to impact on others was capable of being assessed without further information from the applicant or third parties. The officer left no calling card and Mr and Mrs C were unaware that the visit had taken place.

8. In terms of the Park Authority's Scheme of Delegation the application could be determined by planning officers. A Delegated Report was prepared by a planning assistant on 6 February 2006 and countersigned by the Principal Planning Officer on 7 February 2006. The report detailed Mr and Mrs C's objections and addressed these in assessing the proposals. The report concluded that the proposed development would be consistent with the relevant provisions of the development plan and, due to the specific site conditions, would be unlikely to unreasonably detract from the amenities of adjoining residents or the character of the area.

9. Full conditional consent was granted and the approval was issued on 9 February 2006. Mr and Mrs C were informed by letter the same day. They were aggrieved that they had not received the visit they believed they had been promised and contacted their local West Dunbartonshire councillor who wrote on their behalf to Officer 1 on 14 February 2006. Mr and Mrs C wrote directly to the Chief Executive on 24 February 2006.

10. On 24 March 2006 the Director of Planning responded on behalf of the Chief Executive to Mr and C's letter of 24 February 2006. In his reply he disclosed that Officer 1 had visited when no-one was at home. He also detailed the subsequent assessment and approval of the proposals. The Director maintained that the application was processed in line with established procedures and that the decision was made in accordance with the relevant planning considerations. The Director's letter concluded by acknowledging that, while Mr and Mrs C made a request for a meeting in good faith, the Park Authority receives thousands of letters each year in connection with planning applications. It was, therefore, difficult within available staff resources to meet individually with objectors. The Director accepted that it would have been helpful had the planning case officer responded to the request by informing Mr and Mrs C that he had visited their property. Officer 1 had felt there was sufficient information from their letter of objection of 30 December 2005 to allow the issues they had raised to be assessed against the proposal.

11. Mr and Mrs C responded by letter of 17 April 2006 saying they had been assured by Officer 1 at the outset that a meeting with a planning representative would definitely be initiated and would not be a problem, yet the Park Authority failed to send someone to discuss the planning application with them. They maintained that had they been told that they could not have the meeting they would have included far more detail in their letter of objection. They also took issue with a specific remark in the Delegated Report about the current restricted outlook from their kitchen window.

12. The Director of Planning responded to that letter on 3 May 2006. He confirmed that planning case officers did, on occasions, arrange on-site meetings with applicants and/or objectors but such meetings normally involve larger scale and complex applications. The Director stated that there was no obligation for a planning authority to agree to or to undertake such meetings on demand and there would be significant resource impacts on officer time if this were common practice. The Director did not consider the absence of a direct meeting with Mr and Mrs C hindered the officer's understanding of their concerns and assessment of them in reaching a recommendation. The Director added that the notice of neighbour notification which Mr and Mrs C received from the applicant, stated in bold that all representations should be made in writing. He concluded by stating that it was difficult to see what further information regarding planning considerations could

have been submitted or whether further information from Mr and Mrs C would have led to the planning authority making a different decision on the application.

13. Mr and Mrs C wrote further to the Ombudsman on 15 May 2006 stating that they felt let down by the Park Authority in that they did not follow through with the consultation that they had been assured would take place.

14. Although the Park Authority's complaints procedures allow, as a final stage, for a complaint to be considered by the Chief Executive, the Chief Executive responded to my letter of 19 May 2006 by confirming that the Park Authority's position on the issue was as set out in the Director of Planning's letters of 24 March 2006 and 3 May 2006.

15. In responding on 20 July 2006 to my enquiry the Chief Executive stated that there were no formal written procedures on meeting with objectors to discuss proposals on site and it was a matter of professional judgement exercised by the planning case officer whether such a meeting was in the circumstances necessary or appropriate. Acceding to such requests (which were relatively infrequent) raised issues of fairness in respect of the applicant and other objectors and practical issues with regard to resource time and cost. The Chief Executive maintained that there was limited benefit to meeting parties simply to allow them to restate their position. Written confirmation, rather than relying on verbal submissions, provides a record and clarity of the views being expressed. He stated that officers regularly speak with third parties about their circumstances and the process of making representations, while involving staff time, is an effective way of responding to the specifics of the planning case.

(a) Conclusion

16. It is not a requirement of statute nor is it a Park Authority procedural requirement that planning case officers visit the homes of objectors to discuss their concerns. I am satisfied that such a visit would be the exception rather than the rule.

17. It is unfortunate that Mr and Mrs C have differing recollections to those of Officer 1 as to whether he undertook to visit. I am unable to reconcile those differences. I am satisfied, however, that the evidence suggests that the

application was dealt with appropriately under delegated powers. I, therefore, do not uphold the complaint.

28 November 2006

Explanation of abbreviations used

Mr and Mrs C	The complainants
Mr and Mrs A	The neighbours who applied for planning consent
Town B	The town where Mr and Mrs C reside
Officer 1	The planning case officer
The Park Authority	Loch Lomond and The Trossachs National Park Authority