

SPSO decision report

Case: 201103842, Clackmannanshire Council
Sector: local government
Subject: handling of application (complaints by opponents)
Outcome: some upheld, recommendations

Summary

Mr C and Ms C live in a conservation area. They made five complaints about the council's handling of two related planning applications made by their next door neighbours to construct a two storey rear extension. A consequence of the proposed works was the blocking of an existing first floor bedroom window, and the insertion of a new window facing Mr and Mrs C's property. This had consequences for Mr C and Ms C's family's privacy, as the new window overlooked one bathroom and two bedroom windows in their home. Mr C and Ms C had received appropriate neighbour notification about the applications but there was no specific mention of the window in the description of the works or supporting statements. This meant that their attention had not been drawn to the proposed new window, and so they had not objected.

Our investigation upheld three of Mr C and Ms C's four complaints about the processing of the applications (both of which had been the subject of a site visit by the planning case officer). Having taken independent advice from a planning adviser, we found that the absence of objection was not material. The onus rested with the council to demonstrate that they had fully assessed the applications in accordance with the relevant development plan including relevant supplementary planning guidance with regard to privacy in the two reports of handling. We found that the council had not done that and so we upheld these complaints. We also upheld a complaint that the council had provided unsatisfactory and inconsistent responses to Mr C and Ms C's complaint (in relation to the effect of the conservation area designation).

Recommendations

We recommended that the council:

- consider its position in securing the necessary works to alter the daylighting of Mr C and Ms C's neighbour's first floor room to remove the overlooking of bedroom windows in Mr C and Ms C's property.