

SPSO decision report

Case: 201104108, Glasgow City Council
Sector: local government
Subject: policy / administration; planning permission
Outcome: not upheld, no recommendations

Summary

Mr C decided to erect a boundary fence at his property, having firstly checked in the housing estate where he lived to see what other fences had been erected. He did not approach the council to check whether planning consent was required before proceeding. The council wrote to Mr C saying that planning consent was required because the fence was more than one metre high. However, they also told him that if he submitted a retrospective planning application (an application relating to work carried out in the past) for the existing fence it was unlikely that this would be approved, because they considered that the current height of the fence affected vehicle and pedestrian safety.

Mr C complained because he believed that this advice effectively denied him the opportunity to apply retrospectively for planning consent. He claimed that there were inconsistencies in the council's handling of the matter, particularly in the responses he received when he complained that other residents had been allowed to apply for planning permission or that the council had not taken action to require the height of a fence to be reduced. Mr C had also put his property on the market, and complained that the council contacted his selling agents about serving an enforcement notice on his property.

We did not uphold the complaints. After taking advice from one of our planning advisers, we decided that the council's advice to Mr C was reasonable. We found that it was good practice to tell him what the likely recommendation might be if he submitted a retrospective planning application for the unauthorised fence. We did think that the council could have made it clearer that he could still apply for planning consent, but we also took the view that it was implicit in what they said that there was an opportunity to do so. We also found no evidence of inconsistency in the handling of Mr C's case when considered against others. Finally, we found that, although the practice of contacting selling agents had not been formalised, the council intended to include this in a procedural note for staff. Our planning adviser said that although he was not familiar with this, it was not in itself a bad practice.