

SPSO decision report

Case: 201104526, Glasgow City Council
Sector: local government
Subject: conservation areas, listed buildings, tree preservation orders
Outcome: some upheld, recommendations

Summary

Mr C complained on behalf of a local action group about the council's handling of a planning application to build on a site occupied by a commercial property. Mr C said the council unreasonably failed to implement a planning clause requiring replacement of a tree; failed to respond appropriately to concerns about the protection of another tree; and unreasonably failed to obtain information on the appearance of proposed garage doors. He also said the council wrongly claimed that, at a Scottish Government Reporter's meeting, the roads department representative did not support a proposal for planters along the pavement at the front of the new building; and that the council unreasonably delayed in responding to letters about the development.

We took independent advice from one of our planning advisers. He explained that the council could not have used the planning condition to require the replacement of the tree as it was not located in the application site, so we did not uphold this complaint. However, he said that the council could have used different provisions to require another company (that owned the land where the tree was located) to replace it. We were not satisfied that the council took appropriate steps to secure the replacement of the tree, or that they took all appropriate steps to safeguard the other tree. In both cases, we were also critical of the council's failure to provide this office with actual evidence of their actions, and we made recommendations to address all these failings.

Our adviser explained that no public consultation was required about the detail of the garage doors and the council's planning officer was entitled to deal with this under delegated powers. On the matter of what was said at the Scottish Government Reporter's meeting, there was insufficient objective evidence of what the roads department representative actually said. We did not uphold these complaints.

We upheld the complaint that the council delayed in providing information to the action group and local councillors on the health of the second tree, and in responding to Mr C's complaint, and we also criticised the standard of their response.

Recommendations

We recommended that the council:

- make relevant staff aware of our findings on the complaints about the trees;
- ensure that, as a consequence of this complaint, staff in future keep full records of their actions as detailed by our adviser;
- confirm to the Ombudsman when replacement trees will be planted; and
- issue Mr C with a written apology for failing to respond to a letter within a reasonable time and for failing to address the new issues raised.