

Case: 201003961, Scottish Borders Council
Sector: local government
Subject: handling of application (complaints by opponents)
Outcome: not upheld, no recommendations

Summary

Mr C complained that the council granted planning consent for a house on land next to his home. He stated that when the building began it was found that the new property had been built 1.4 metres closer to his property than had been approved. This raised concerns about overlooking from the upper windows of the new house into the lower windows of Mr C's property. To address this concern, one of two windows on the elevation facing Mr C's property was removed and a retrospective planning application was granted.

Mr C raised concerns that the overlooking of his property from the remaining window had not been reasonably acknowledged or addressed in the council's revised report to the planning committee. He complained that the report was misleading because it did not reasonably acknowledge the council's guidance about the recommended distances between windows at the relevant angles to each other. In their response, the council told him that they were satisfied the report was not misleading.

Mr C also complained that the council's responses to him were inaccurate as they said that a new property had been built further from Mr C's property than the plans approved, and that they had wrongly stated in another letter that the lane between the two properties was a public road.

We took advice from one of our planning advisers, who considered the relevant policies and guidance. This included the council's own relevant supplementary planning guidance, which gives the council and its officers a significant degree of discretion in applying these standards. The council followed the decision-making process correctly and the developer's action complied with the council's request. As the correct procedures were followed, we cannot question the merits of the revised planning decision.

Our adviser said that he did not find the report misleading and found no evidence of inaccurate dimensions (or descriptions) in it. He said the dimensions outlined in the council's letter to Mr C also appear to be correct, and that the angle of the window involved seemed to have been the subject of broad agreement between Mr C and the council. Our adviser saw no reason to believe that overall the council acted in an unreasonable manner in responding to Mr C's concerns. Although Mr C did not agree with their assessment, we found that he was not unfairly treated.