

SPSO decision report

Case: 201203395, The City of Edinburgh Council
Sector: local government
Subject: handling of application (complaints by opponents)
Outcome: not upheld, recommendations

Summary

Some years ago, a developer submitted a planning application to build a block of flats behind Mr C's home. The application included a plan showing an intention for plants to be used as a screen at the boundary between the flats and Mr C's property. During the application process, the council's development quality sub-committee carried out a site visit and issued a report requiring that a condition be included in any planning consent, requiring formal approval of landscaping plans with particular regard to screening at that boundary. Mr C complained on behalf of a number of local residents that existing plants were removed from there, and no screening was introduced. He said that the council had not enforced the planning condition.

We took independent advice on the complaint from one of our planning advisers. Our investigation found that the planning department approved the application and the associated landscaping plans, and had the appropriate delegated authority to do so. Revised landscaping plans were submitted that did not include screening at that boundary. As there was no specific planning need for this (daylight and privacy requirements had been comfortably met), and a strip of land to the east of the development was required for access to a gas main, the planning department approved the revised plans.

It was clear from the evidence submitted to us that the sub-committee were strongly of the view that screen planting should be used between the development and existing properties. Although we acknowledged that the final position taken by the planning department was reasonable, we were concerned that the planning department acted without taking account of the fact that the submitted landscaping plans were clearly at odds to those originally submitted and the intentions of the sub-committee. In response to our enquiries, the council had told us that the condition proposed by the sub-committee was unenforceable and did not meet the basic standards for planning conditions. That being the case, we considered that there was ample opportunity for the planning department to have highlighted this to the sub-committee before the planning decision notice was issued. The condition could have been amended or removed, avoiding expectations being raised that screen planting would be in place when the development was completed. We also considered that, as this had been a contentious development, which attracted a large number of objections, the council should have done more to ensure that their decision-making was transparent.

Mr C also raised concerns about the council's handling of his complaints, but we found this to be satisfactory.

Recommendations

We recommended that the council:

- review their communication procedures so that in situations where approvals under planning conditions are clearly significantly at odds with the terms of the decision on the application itself, an explanation of the reasons is provided to interested parties; and
- review their procedures for identifying planning conditions that they consider do not meet the standards set out in planning circular 4/1998 and addressing such matters before decision notices are issued.