

SPSO decision report

Case: 201305494, Fife Council
Sector: local government
Subject: handling of application (complaints by opponents)
Outcome: not upheld, recommendations

Summary

Mr C's neighbour was granted planning consent by the council for a single storey rear extension and the addition of two dormer windows to their property. Other renovations to the existing property were also carried out at this time including replacing windows in the lounge. Mr C complained that in granting planning permission, the council did not follow their own policies and guidelines in relation to the amenity of his property.

After taking independent advice from one of our planning advisers, we found that the council had considered all the relevant policies and guidelines when assessing the application. However, we also found that, in responding to Mr C's complaint, they had referred to different considerations for the distances between windows in neighbouring properties and habitable/non-habitable rooms in any new development. These considerations were not mentioned in any of their existing policies or guidance. We also found that the council had incorrectly advised Mr C on two issues when responding to his complaint. He was wrongly told that the kitchen in his neighbour's extension was a non-habitable room, and that the replacement windows in the existing lounge did not require planning consent. Although we did not uphold Mr C's complaint, we made recommendations to the council about the incorrect advice he was given.

Recommendations

We recommended that the council:

- apologise to Mr C for initially incorrectly advising him that the kitchen was classed as a non-habitable room;
- ensure that at the next review of guidance, the different considerations for habitable and non-habitable rooms are clearly set out; and
- apologise to Mr C for incorrectly advising that him the replacement windows in his neighbour's property did not require planning consent under the terms of the relevant legislation, and make the relevant staff aware of our adviser's comments about this.