

SPSO decision report

Case: 201400823, Shetland Islands Council
Sector: local government
Subject: handling of application (complaints by opponents)
Outcome: upheld, recommendations

Summary

Mr C complained that the council had failed to assess a planning application for a house next to his property. We took independent advice on Mr C's complaint from one of our planning advisers. We found that the council had not assessed the site levels of the new house adequately, and had not correctly anticipated the size a screen fence would have to be to mitigate Mr C's concerns about the loss of privacy for his own property. Therefore, we upheld this aspect of Mr C's complaint.

Mr C also complained that the council did not impose a reasonable planning condition to mitigate the issue of overlooking. He was unhappy that his neighbour had not put up a screen fence and that the council had not taken action to enforce this. We found that the planning condition the council had relied on was not precise enough, and that there was considerable doubt as to whether the council would be able to successfully enforce the planning condition. In view of this, we also upheld this aspect of Mr C's complaint.

Finally, Mr C complained that the council had failed to respond to his complaint within a reasonable timescale. We upheld this aspect of Mr C's complaint as there had been a considerable delay by the council in responding to the complaint and they had not acted in line with their complaints procedure.

Recommendations

We recommended that the council:

- consider recording the details of site visits in their files;
- consider facilitating the provision of an effective screen fence at their cost between the properties, if this is acceptable to Mr C;
- take steps to ensure that their use of planning conditions is in line with the Scottish Government's guidance on the use of conditions in planning permissions;
- issue a reminder to staff in their planning service that complaints must be dealt with in line with their complaints handling procedure; and
- issue a written apology to Mr C.