

SPSO decision report

Case: 201606552, The City of Edinburgh Council
Sector: local government
Subject: policy/administration
Decision: upheld, recommendations

Summary

Mr C applied for, and was granted, planning permission to create a pavement crossing and a parking area within his garden. An additional permit was required for the excavations needed to lower the kerb. The council, having initially given Mr C verbal approval, did not issue a permit for the dropped kerb. Mr C complained to us that he was unreasonably given conflicting information in relation to the dropped kerb application. Mr C said he had already paid a contractor to lay paving slabs to make the parking area, which he was unable to use. Mr C also complained that the council took too long to respond to the complaint.

We found that the planning process and the process by which permission can be sought to carry out excavations to a road are governed by entirely separate legislation. The council's roads service failed to submit an objection to Mr C's planning application by the deadline date. Their objection related to the impact that Mr C's plans would have on other residents, in particular that it would reduce the number of available on-street parking places. It was not clear what impact, if any, this objection would have had on the planning committee decision.

The relevant roads legislation says the council may give permission to excavate the public road. In this case the council did not do so. We found that there was unreasonable confusion in respect of the permit application. Verbal permission should not have been given until any concerns about it had been properly considered by the council. We upheld this aspect of the complaint.

We found that the council failed to issue responses to Mr C's complaints within the timescales set out in their policy. We took into account that the council had already offered sincere apologies for the lengthy delay. We upheld this aspect of the complaint.

The council told us they were in the process of carrying out a review of the planning process where a separate permit to carry out excavations in the road or footway are subsequently required. We asked the council to let us know the outcome of this review.

The council told us they had invited Mr C to make an insurance claim for reimbursement of the cost of work already carried out before the permit was refused. We asked the council to let us know the outcome of any claim Mr C submitted.

Recommendations

We recommended that the City of Edinburgh Council:

- advise us of the outcome of the review already underway in relation to the planning process in cases where Section 56 permits are subsequently required; and
- advise us of the outcome of the insurance claim.