

Scottish Parliament Region: West of Scotland

Case 200500226: East Renfrewshire Council

Summary of Investigation

Category

Local government: Planning; Policy

Overview

The complainants (Mr and Mrs C) raised three specific complaints against East Renfrewshire Council (the Council) that they had not adequately handled their objections to, and thereafter approved the erection of, a two storey extension to the rear of a neighbouring bungalow.

Specific complaints and conclusions

The complaints which have been investigated are that the Council:

- (a) failed to take account of Mr and Mrs C's objections to a neighbouring extension (*not upheld*);
- (b) did not allow Mr and Mrs C to attend meetings about the proposed extension (*not upheld*); and
- (c) made a decision based on overshadowing calculations which were flawed (*not upheld*).

Redress and recommendations

The Ombudsman has no recommendations to make.

Main Investigation Report

Introduction

1. The Ombudsman received a complaint from Mr and Mrs C that East Renfrewshire Council (the Council) had not taken proper account of their objections to the erection of a two storey extension to the rear of a neighbouring bungalow and thereafter had approved the extension. Mr and Mrs C alleged that the neighbouring extension had impacted adversely on their privacy, light, bird-life and damaged their property through the lack of direct sunlight.

2. The complaints from Mr and Mrs C which I have investigated are that the Council:

- (a) failed to take account of Mr and Mrs C's objections to a neighbouring extension;
- (b) did not allow Mr and Mrs C to attend meetings about the proposed extension; and
- (c) made a decision based on overshadowing calculations which were flawed.

Investigation

3. The investigation of this complaint involved obtaining and reading all relevant documentation, including correspondence between Mr and Mrs C and the Council. I also considered the relevant report submitted to the Planning Application Committee (the Committee), dated 8 March 2005, and a copy of the extract of the Minute of the Meeting of the Committee of 8 March 2005. I made a formal enquiry to the Council on 14 August 2007 and received their reply on 10 September 2007.

4. I have not included in this report every detail investigated but I am satisfied that no matter of significance has been overlooked. Mr and Mrs C and the Council were given an opportunity to comment on a draft of this report.

(a) The Council failed to take account of Mr and Mrs C's objections to a neighbouring extension

5. Mr and Mrs C told me that they were devastated when they received notification that a neighbour intended to build a two storey extension to the rear of his bungalow.

6. In their letters to the Council, dated 26 November 2004 and 8 February 2005, Mr and Mrs C objected to the proposed extension and stated

that, in their view, the extension would have a detrimental effect on their back garden, privacy, light, bird-life and pergola, through the lack of direct sunlight. Furthermore, Mr and Mrs C said that the extension would overshadow and overlook their property; create a loss of view; be out of character with the other properties in their area; and have a detrimental effect on property values.

7. Thereafter, Mr and Mrs C received a letter from the Planning Department, dated 23 March 2005, which confirmed that Council permission had been granted for the extension. Mr and Mrs C opined that 'We felt that a number of our representations had been ignored' and furthermore that no-one seemed to care.

8. In their reply to me, the Council refuted the allegations that it failed to take account of Mr and Mrs C's objections (see paragraph 6). The Council referred to a copy of the report by the Director of Environment dated 8 March 2005 (the Report) which was submitted to the meeting of the Committee that sat on 8 March 2005 (see paragraph 3), at which the neighbour's application was considered. The Council stated that, within the body of the Report, Mr and Mrs C's objections (see paragraph 6) were addressed by them.

9. As part of my enquiries, I requested a copy of the Report (see paragraph 3) and noted that Mr and Mrs C's representations, as outlined in paragraph 6, were each listed individually within the summary of representations within the Report.

10. The Report also included references to relevant policies such as policy POLDC2 - Alterations to Existing Dwellings and policy DC2/1 - Extensions.

11. Subject to two conditions, a recommendation was made to approve the extension.

12. Thereafter, the Report was submitted to the meeting of the Committee (see paragraph 8). The members present agreed that the application be approved, subject to the conditions detailed in the report.

(a) Conclusion

13. Mr and Mrs C believed that the Council failed to take account of their objections to the erection of a two storey extension to the rear of a neighbouring

bungalow. As the Council granted planning permission for the extension, Mr and Mrs C felt that their objections had been ignored.

14. I have carefully read all the documentation, including correspondence between Mr and Mrs C and the Council (see paragraphs 6 and 7). I have also read the Report which was submitted to the Committee and the minutes of the meeting on 8 March 2005 of the Committee (see paragraph 9).

15. However dissatisfied Mr and Mrs C were with the Council's response to their objections and thereafter the decision taken by the Council to approve the extension, it is clear from the documents I have seen that the Council considered all the objections Mr and Mrs C raised against the extension before it was approved. Accordingly, I do not uphold this aspect of the complaint.

(a) Recommendation

16. The Ombudsman has no recommendations to make.

(b) The Council did not allow Mr and Mrs C to attend meetings about the proposed extension

17. According to Mr and Mrs C, the Council did not allow them to attend meetings about the extension, although Mr and Mrs C stated they requested this several times. This specific request was included in their letter of representation to the Council dated 8 February 2005 (see paragraph 6).

18. In the Council's response, dated 23 March 2005, to Mr and Mrs C's request, they stated that 'unfortunately, it is not always possible to respond to individual requests to meet objectors due to workload pressures'.

19. In their reply to me, the Council verified that Mr and Mrs C asked for a meeting with the relevant case officer and said 'However it is not always possible for officers to meet individual objectors and it is certainly not proper for officers to discuss the merits of development proposals prior to making a recommendation'. Furthermore, as the case officer was familiar with the application site and had received Mr and Mrs C's detailed letter of objection, it was not considered necessary to hold a meeting with them. The Council added that no other meetings were convened regarding the application until the matter was considered at the meeting of the Committee of 8 March 2005 (see paragraph 8).

20. The Council advised that all Council meetings are open to the public and Mr and Mrs C would have been entitled to attend the meeting at which their neighbour's application was considered (see paragraph 8) but, in accordance with normal practice, they would not have been permitted to speak at this meeting.

(b) Conclusion

21. Mr and Mrs C believed that the Council had not allowed them to attend meetings about the extension. I have carefully considered all the documentation about this complaint (see paragraph 4). It is clear that Mr and Mrs C requested a meeting and the Council refused their request (see paragraphs 17 and 18) but, in my view, the reasons the Council provided for having refused the meeting request were reasonable (see paragraph 19). Furthermore, I have not seen evidence to support Mr and Mrs C's opinion that they were not allowed to attend meetings about the extension (see paragraph 20). Accordingly, I do not uphold this aspect of the complaint.

(b) Recommendation

22. The Ombudsman has no recommendations to make.

(c) The Council made a decision based on overshadowing calculations which were flawed

23. Mr and Mrs C advised that their back garden lies four metres below front ground level, facing south-east. Over 20 years, Mr C cultivated beds and borders, built a patio area and pergola at substantial expense and labour. Furthermore, 'as the side elevation of this extension lies on the same plane, direct sunlight would be blocked for a huge part of the day'.

24. Mr and Mrs C stated that they had doubts that the Council's overshadowing calculations were correct.

25. Within the Council's response letter to Mr and Mrs C, dated 23 March 2005, they explained in detail why, in their view, the overshadowing calculations were 'not so severe' as to justify refusal. Specifically, that their calculations had shown that the existing neighbouring dwelling and the existing boundary hedge, began to cast a shadow over Mr and Mrs C's rear garden in March from 13:00. By around 15:30, their garden was completely overshadowed. With the addition of the extension, the shadow would begin to be cast over the garden from 12:00 and their garden would be in complete

shade by around 15:00. The Council's response stated that during the summer months the shadows were significantly shorter and less of Mr and Mrs C's garden would be overshadowed.

26. In their response to me, the Council stated that Mr and Mrs C had not explained to them why they considered that the Council's overshadowing calculations were flawed. In the Chief Executive's view 'my colleagues in the Planning Division of the Environmental Department have confirmed that [the overshadowing calculations] are sufficiently accurate to have allowed proper consideration of the [planning] application'. The Council provided a plan showing the shadows cast at various periods during the day.

27. Within the Report (see paragraph 9), the Council outlined their assessment of the planning application, that any additional overshadowing 'would not be considered to be so severe as would justify a refusal of the application on those grounds. An overshadowing calculation has confirmed that the proposed extension would not cast a shadow significantly greater than that cast by the existing dwelling'.

28. The Council verified that the Development Control Manager had written to Mr and Mrs C on 23 March 2005 (see paragraph 25) and included clarification about the overshadowing calculation relative to the proposed extension and why they considered that the additional shadows, cast by the proposed extension, would not be so severe as would justify a refusal of the planning application for the extension.

(c) Conclusion

29. Mr and Mrs C alleged that the Council had used flawed overshadowing calculations as part of their decision making process in reaching approval of the extension. I have carefully considered all the documentation about this aspect (see paragraph 3) but I have not had sight of any explanation given by Mr and Mrs C as to why, in their opinion, the overshadowing calculations (see paragraph 24) were flawed. Furthermore, the Council in good time provided Mr and Mrs C with clear details and information, regarding how they reached their decision on the overshadowing calculations. Accordingly, I do not uphold this aspect of the complaint.

(c) Recommendation

30. The Ombudsman has no recommendations to make.

Explanation of abbreviations used

Mr and Mrs C	The complainants
The Council	East Renfrewshire Council
The Committee	The Planning Application Committee that approved the extension
The Report	The Report to Committee, compiled by the Director of the Environment who considered Mr and Mrs C's objections to the extension