

Scottish Parliament Region: Mid Scotland and Fife

Case 200600024: Fife Council

Summary of Investigation

Category

Local government: Planning; Local Plan

Overview

The complainant (Mrs C) raised concerns that Fife Council (the Council) had not produced a finalised Draft Local Plan within the stated timescale and that they had failed to alter the wording of the online Draft Local Plan to give a true picture of the planning proposals.

Specific complaints and conclusions

The complaints which have been investigated are that the Council:

- (a) failed to produce a finalised Draft Local Plan within the stated timescale (*not upheld*); and
- (b) failed to alter the wording of the online Draft Local Plan to give a true picture of the planning proposals (*not upheld*).

Redress and recommendations

The Ombudsman has no recommendations to make.

Main Investigation Report

Introduction

1. Mrs C wished to sell her property (the Property) but did not get the price she was hoping for. Mrs C complained that the selling price had been affected by the St Andrews and East Fife Draft Local Plan (the Draft Local Plan). Under the terms of the Draft Local Plan, a site adjacent to the Property (the Site) was allocated for housing development with a potential capacity of 70 units.

2. Mrs C raised this matter with Fife Council (the Council)'s Head of Development Services on 6 March 2006. The Council agreed to post a notice on the Draft Local Plan website to make clear that some of the sites identified for development in the Draft Local Plan would be reviewed and were subject to change. They also provided Mrs C with a letter explaining the status of the Draft Local Plan, which she could give to potential purchasers.

3. On 29 March 2006, Mrs C raised her complaint with the Chief Executive of the Council. The Chief Executive responded on 16 May 2006 and confirmed that the changes to the website were made on 29 March 2006. He also stated that the Council were not liable to compensate Mrs C for the decrease in value of her property.

4. On 10 May 2006, Mrs C raised her complaint with the Ombudsman. On 14 August 2006, the Ombudsman decided to investigate this complaint.

5. The complaints from Mrs C which I have investigated are that the Council:

- (a) failed to produce a finalised Draft Local Plan within the stated timescale; and
- (b) failed to alter the wording of the online Draft Local Plan to give a true picture of the planning proposals.

Investigation

6. My investigation of this complaint is based on information provided by Mrs C and the Council. This includes background correspondence between Mrs C and the Council and the Council's complaints file on this matter. I also reviewed the Council's process for the production of the Local Plan (the Process) and the Scottish Executive Planning Advice Note 49 (PAN 49) on Local Plans.

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

(a) The Council failed to produce a finalised Draft Local Plan within the stated timescale

8. The Draft Local Plan was published for consultation on 7 March 2005. The consultation period ran until 2 May 2005. The Draft Fife Structure Plan was also issued for consultation during the same period.

9. The Draft Local Plan allocated the Site for housing development with a potential capacity of 70 units. Mrs C put the Property on the market in May 2005 when the Draft Local Plan was first issued. In March 2006, Mrs C decided to reduce the price of her property as she had been unable to sell it. Mrs C stated that, in her view, the price reduction was due to the uncertainty about the future of the Site.

10. Mrs C stated that, at meetings to discuss the Draft Local Plan in May 2005, the Council had indicated that the finalised Draft Local Plan (the Finalised Draft) would be issued in July 2005 but that this was later extended to September 2005 due to the large number of objections received.

11. The Council explained that, when the Draft Local Plan was published in 2005, they had indicated that the Finalised Draft would be published in Autumn 2005. They have, however, reviewed this timescale and amended the Process taking into account their progress so that the Process appropriately reflects the time required by the Council at each stage. The Council's most recent version of the Process indicates that the Finalised Draft will be published in 2006-2007. The Process then allows for a further consultation period. If further objections were to be received at this stage, a Public Local Inquiry would be held before finalising the Local Plan for adoption. The Process indicates that the Local Plan should be adopted in Winter 2007-2008. These timescales depend on the timescales for approving the Finalised Structure Plan 2006.

12. The Council informed me that the timescale for publishing the Local Plan is largely dependent on the Fife Structure Plan. The Structure Plan sets the strategic planning context for Fife's Local Plans. The Local Plans must conform with the Structure Plan. The Structure Plan was not approved by the Council's Environment and Development Committee until 31 March 2006. The Local Plan

was thereafter considered by the Environment and Development Committee on 31 August 2006.

13. The Local Plan, as approved, is now a material consideration for planning purposes. The Council have informed me that they will not publish the Finalised Draft for consultation until the Scottish Executive have taken a formal decision on the Fife Structure Plan. At this stage, they have not received an indication of when a decision will be taken by the Scottish Executive.

14. The Scottish Executive's PAN 49 advises on good practice for local authorities producing Local Plans. PAN 49 directs local authorities that 'once a decision is taken to prepare a replacement plan or alteration, it should be produced quickly in order to maintain adequate policy coverage and avoid needless uncertainty and blight'. It goes on to state that 'under current regulations, best practice indicates that planning authorities should be able to take less than 3 years to prepare and adopt most new or replacement local plans'.

(a) Conclusion

15. The Council initially indicated that they would publish the Finalised Draft in Autumn 2005. They were unable to publish the Finalised Draft within this timescale due to the impact of the Fife Structure Plan. The Council reviewed the timescale for publication accordingly and the most recent timescale given is 2006-2007.

16. Even if the Council had published a Finalised Draft earlier, I do not consider that it would have made any significant difference to the sale of the Property. The Finalised Draft is also subject to comments and may be amended further before it is adopted. In this sense, there would still not be any certainty about the status of the Site.

17. The Scottish Executive advise that it is best practice to produce a local plan within 3 years and the Council are still within this timescale. I consider that it was appropriate for the Council to review their timescales to reflect the circumstances and that the Council was in no way bound to publish the Finalised Draft by Autumn 2005. The reasons given for the new timescale are acceptable and I, therefore, do not uphold this complaint.

(b) The Council failed to alter the wording of the online Draft Local Plan to give a true picture of the planning proposals

18. Mrs C complained that potential buyers were put off her property when they accessed the Draft Local Plan on the internet and read about the potential development of the Site. She complained that the online version of this document did not make it sufficiently clear that the proposals within it were still subject to change following consultation.

19. A Team Leader in Local and Community Policy (Officer 1) acknowledged that the status of the Local Plan was not obvious unless the reader referred to information at the start of the document. He stated that it would be good practice for prospective purchasers and their agents to check the status of the plan. Officer 1 informed Mrs C that the Council would consider changing the format of the online Local Plan when future development plan proposals were produced. He suggested that they could clearly state, at the bottom of each development proposal table, that the proposals are not finalised and are a draft for consultation only.

20. Officer 1 emailed Mrs C on 24 March 2006 and explained that the Council had placed a flagged message on the website from which the online version of the Draft Local Plan was accessed. The message stated that when the Finalised Local Plan was published, some of the sites available for development in the Draft Local Plan would have been reviewed and subject to change. This change was effective from 29 March 2006.

21. Officer 1 also provided Mrs C with a letter which she could hand out to prospective buyers with the particulars for the Property. The letter explained that the Draft Local Plan identifies the Site as being an area considered for future development consisting of approximately 70 houses over a ten year period. The letter highlighted the fact that the proposal had not been finalised and was for consultation only. The letter also invited prospective purchasers to contact the Council's Development Services staff if necessary.

22. Mrs C wished for the wording of the online Draft Local Plan to be changed. The Council explained that they were unable to make changes to the Draft Local Plan at that stage as many printed copies had already been distributed and the online version had been available for download for some time.

(b) Conclusion

23. The Council went some way to alleviate any possible impact of the Draft Local Plan on the sale of the Property. I commend the Council for taking this action. I accept the Council's reasons for not amending the wording of the Draft Local Plan and believe that the Council acted appropriately in these circumstances. Furthermore, I do not believe that the changes suggested by Mrs C would have removed any hesitancy shown by potential purchasers. The changes would not have removed the possibility that the Site may be developed for housing and this may still have put potential purchasers off. Additionally, it is not possible to determine with any certainty, the extent to which the reduction in value of Mrs C's property is attributable to the wording of the Draft Local Plan.

24. It is unfortunate that Mrs C did not achieve the sale price that she had hoped for the Property but I consider that the Council acted appropriately in deciding not to alter the wording of the online Draft Local Plan and I, therefore, do not uphold this complaint.

22 August 2007

Explanation of abbreviations used

Mrs C	The complainant;
The Property	Mrs C's property which she wished to sell;
The Draft Local Plan	The St Andrews and East Fife Draft Local Plan;
The Site	A site adjacent to the Property;
The Council	Fife Council;
The Process	The Council's Local Plan Process;
PAN 49	The Scottish Executive Planning Advice Note 49;
The Finalised Draft	The finalised draft of the St Andrews and East Fife Draft Local Plan;
Officer 1	Team Leader - Local and Community Policy.