

Case: 201004719, West Lothian Council
Sector: local government
Subject: handling of application (complaints by opponents)
Outcome: not upheld, no recommendations

Summary

Mr C's brother was granted planning permission to build holiday cottages on his land in 2006 subject to conditions about the improvement of the access road to the north. Mr C owns the road and did not give permission for the improvements to be made as he did not want traffic from the cottages using the road. Mr C's brother sought planning permission for improvements to the access road to the south in 2007. Since then Mr C's brother has advertised and encouraged cottage users to use the north access.

Mr C complained that the council had not taken reasonable enforcement action against the breach of the 2006 planning conditions. He also complained that the council acted unreasonably when deciding that the access arrangements were not unsafe.

The council responded that they had considered the effect of the small increase in traffic along with other factors and decided that it did not result in unsafe access arrangements. This was a decision the council were entitled to take. Our planning adviser concluded that the council had given reasonable consideration to the case of enforcement. The adviser commented that the statutory enforcement provisions of the planning acts are discretionary, not mandatory, and Government guidance strongly advises proportionality and reasonableness in taking enforcement action.

In this case, we considered that the relevant 2006 planning condition was a very general one in the interests of road safety and although the condition would have improved accessibility to the cottages, the traffic using the north access did not exacerbate the existing situation and did not result in less safe arrangements.