SPSO decision report

Case: **201200467, East Renfrewshire Council**
Sector: local government
Subject: handling of application (complaints by applicants)
Outcome: not upheld, no recommendations

Summary

Mr C applied for planning permission to install solar panels in the grounds of his property, which was a Grade B listed building. He told us that he had intended to take advantage of the government's feed-in tariff scheme, which paid energy producers for excess electricity that was returned to the national grid. The council approved the planning application, but applied a condition requiring him to dismantle the equipment after ten years. Whilst they advised him that he could reapply after ten years to extend the permission, Mr C was reluctant to proceed on this basis. He asked for the condition to be reviewed by the planning Local Review Body (LRB), noting that the feed-in tariff scheme was intended to run over a 25 year period. The LRB concluded that a 25 year time-limited condition would be more appropriate and granted planning permission on that basis. However, while Mr C was pursuing his appeal with the LRB, the government changed the terms of the feed-in tariff scheme, making his solar panels financially non-viable.

Mr C complained that the council applied a 'catch-all' condition, normally used for wind turbines, to his planned solar panel installation. He also complained that they should have made him aware of the ten year condition at the pre-application stage, as it is applied consistently across all renewable energy developments. Mr C felt that the council should have applied conditions that reflected the terms of the feed-in tariff scheme.

Our investigation confirmed that Mr C had attended a pre-application meeting with the council's planning officer. Whilst the planning officer said that she had told Mr C about the ten year condition, there was no record of this and we were unable to confirm what information, if any, was provided. We found that it would have been good practice for the council to provide details of any standard conditions at the pre-application stage, but noted that there was no statutory obligation for them to do so. We learned that the council have since accepted that they could provide this information and have taken steps to ensure that it is provided in the future.

We did not uphold Mr C's complaints. We considered it reasonable for the council to impose time-limited conditions on applications for renewable energy projects, and were satisfied that any timescale set was at their discretion. We did not find that the feed-in tariff scheme should have been a material consideration (a genuine planning consideration related to the purpose of planning legislation, which is to regulate the development and use of land in the public interest) when determining the planning application, but felt that they could have taken into account the financial viability of Mr C's project. However, we considered it reasonable for the council to take a cautious approach in the first instance and for such matters to be addressed at a review stage if necessary. Whilst the timing of the changes to the feed-in tariff scheme were unfortunate, the council would not have been able to predict these and we were satisfied that the planning process operated as it was intended to.

We were also satisfied that it was reasonable of the council to apply their standard ten year condition to solar panel installations, despite evidence that this had been used for wind turbines in the past. We considered the key issue to be the requirement to dismantle any redundant or obsolete equipment, rather than the nature of the equipment itself.