

SPSO decision report

Case: 201204938, Aberdeenshire Council
Sector: local government
Subject: handling of application (complaints by opponents)
Outcome: some upheld, recommendations

Summary

Mr C complained about the council's handling of three planning applications. He said that the applicant had originally claimed that a number of people, including Mr C, supported all three applications. Mr C, however, said that he had supported only one (smaller) application. The police were still conducting an investigation into this when the council granted planning permission. Mr C questioned the transparency of the council's decision.

Our investigation found that the information about the level of support for the applications came to light after the planning reports were prepared and they had to be amended. However, the copies on the council's website were not updated properly and so Mr C questioned whether or not the committee, when they decided to grant permission, had considered the accurate reports. The council acknowledged that their website was out of date and said that this was an administrative error. They said that this did not mean that the committee had considered out of date information and explained that the matter was specifically brought to the chair's attention at the start of the meeting. They also explained that they had taken legal advice and were told that, on the basis of 'innocent until proven guilty', the applications should be decided despite the ongoing police investigation.

Although the council provided the original and updated paperwork, there was no documentary evidence that could confirm exactly what papers the committee had considered. In addition, the legal advice had been given verbally, so there was no documentary record of what had been said. Although we upheld Mr C's complaint that incorrect information was made available online, we did not find that the council had unreasonably determined the applications. They had taken legal advice and, from an administrative perspective, took a decision that they were entitled to take (although we did recommend that they keep records of such advice in future).

Recommendations

We recommended that the council:

- consider making contemporaneous records of verbal legal advice to ensure a clear audit trail; and
- update their website to reflect the accurate reports considered by the committee (in both the planning and committee sections).