

## SPSO decision report

**Case:** 201403680, East Lothian Council  
**Sector:** local government  
**Subject:** handling of application (complaints by opponents)  
**Outcome:** some upheld, no recommendations

### Summary

Mr and Mrs C complained about the way in which the council's planning department handled an application for the change of use of office buildings which neighboured their property. They raised concerns that the proper scrutiny measures were not used in assessing the application, that consultations were inadequate and that the department failed to refer the matter to Scottish Ministers. They complained about the adequacy of the council's assessment of the application in terms of environmental impact and amenity (enjoyment of the property or surroundings). They also considered that the planning report's reference to a similar previous application was misleading. They complained that other non-planning legislation existed that would prevent the building being used for its intended purpose. They considered that the council should have taken this into account.

We took independent advice from a planning adviser. This indicated that the council advertised the application in line with the law and they carried out appropriate consultations. We were advised that the application did not fit the criteria for referral to Scottish Ministers and that the council had no obligation to subject it to further scrutiny measures. We concluded that the council appropriately assessed the application and took all relevant information into account. We considered it reasonable for the report, in outlining the area history, to have referred to a previous application. In terms of whether the operation of the proposed facility would comply with other legislation and standards, we were advised that this was a matter for relevant other authorities and/or the courts, and not the council as planning authority. We found no evidence of administrative failure in the council's handling of the application and we did not uphold the complaints. We did uphold a complaint about a delay by the council in responding to this complaint, but we noted that they had already acknowledged and apologised for this and that the delay was not significant.