

SPSO decision report

Case: 201507760, Aberdeenshire Council
Sector: local government
Subject: handling of application (complaints by opponents)
Outcome: upheld, recommendations

Summary

Mr C complained about the council's handling of a planning application at a business park where he owns property. Mr C was concerned that the neighbour notification process had not been correctly followed as he had not received any information on the proposed development. He also complained that the council did not have sufficient information about the nature of the business that was to operate from the new development before approving the application, and that his subsequent reports of noise and pollution had not been acted on appropriately.

We took independent advice from a planning adviser and upheld Mr C's complaint. We found that while Mr C's property was not within the neighbour notification area, the council had already acknowledged that the process had not been correctly followed as the description of the development provided in the notification and local press advertisements was inaccurate. The council accepted that updating the description amounted to a substantial change which should have been re-notified and re-advertised. The advice that we received was that a change of this type should have necessitated a new planning application. The council explained that they had reviewed their planning processes and steps were in now in place to prevent a recurrence of errors like this in future.

In relation to the information available to the council in reaching a decision on the planning application, the advice we received was that not all material considerations had been taken into account. The adviser considered there was no evidence that pollution and contamination had been considered. The adviser explained that any decision on whether the planning consent was valid would be a matter for the courts if a legal challenge was made.

We noted that Mr C had continued to report difficulties in respect of pollution. We found that following initial reports, there had been a failure to promptly advise Mr C of the outcome of environmental investigations and that planning action on this issue had been somewhat delayed. We made a number of recommendations to address the issues highlighted by this investigation.

Recommendations

We recommended that the council:

- provide evidence of all the steps taken, including training, to prevent such errors recurring in future;
- apologise for the failings identified in this investigation;
- make the relevant staff aware of the adviser's comments and guidance on material considerations;
- establish whether noise and pollution continues to be a concern for Mr C; and
- consider further environmental health investigation on the basis of the current position.