

SPSO decision report

Case: 201607370, Dumfries and Galloway Council
Sector: local government
Subject: handling of application (complaints by opponents)
Decision: upheld, no recommendations

Summary

Mr C made a complaint about the delay by the council in processing a retrospective planning application for a wind turbine that was built near his home. Planning permission was granted to build three wind turbines near Mr C's home. The third and final of these wind turbines was built approximately two years after the first two but was larger than the others. Mr C raised concerns about this with the council and was unhappy with their response, namely not to take enforcement action and to allow the owner of the turbine to make a retrospective application for planning permission. Mr C was unhappy about the lack of action by the council to remedy this situation.

The council explained that delays in the planning application occurred due to a combination of factors including staffing issues and delays in completing a noise survey. The completion of noise surveys was delayed for a number of reasons including inclement weather and the turbines requiring repairs. The decision was eventually taken to present the owner with the option to have the application determined and refused on the information available, or that they could withdraw the application and re-submit it in three months when the noise surveys could be correctly carried out. The owner withdrew the application and when the new application and noise surveys were not submitted as anticipated, the council began enforcement action. The owner complied with the enforcement action and arranged to have the turbine taken down. Mr C was unhappy with the council's response and the delays in this case and brought his complaint to us. We noted that when the council became aware of the planning breach, they responded within the appropriate timescale and requested further information from the owner's agent. However, there was then a delay of several months with no explanation before the decision was made that a retrospective planning application was required.

We took the view that deadlines should have been imposed on the owner much sooner than they were, with the council being overly generous in the time that was allowed to the owner to comply with their requests. The council could also have taken the decision to refuse the application on the grounds of insufficient information (or offer the applicant the opportunity to withdraw the application) much sooner than they did. This would have allowed for alternative enforcement action to begin.

We found that the application was live for an excessive period of time and that there were frequent delays in action being taken. We upheld Mr C's complaint. However, the council advised that they had taken steps to stop this from happening again in the future, including introducing regular reviews of staff caseloads. We were satisfied with this and asked that the council provide us with evidence of this. We did not make any further recommendations.