

SPSO decision report



Case: 201904027, East Dunbartonshire Council
Sector: Local Government
Subject: Policy / administration
Decision: some upheld, recommendations

Summary

C complained about the council's handling of a planning application. Planning consent was approved for a development that was contrary to the Local Development Plan. Whilst C acknowledged that the Planning Committee were entitled to approve the development, they considered that, in doing so, the Committee failed to explain what material considerations had contributed to the decision to go against the Local Development Plan and approve the application. C also complained that a pre-determination hearing should have been held, but was not.

C raised their concerns in a complaint to the council. They said that it took many months of repeated attempts to obtain a response from the council and, when the council did respond, C did not consider that their concerns had been addressed.

We took independent advice from a planning specialist. There was no question that the Planning Committee had the authority to approve developments that were contrary to the Local Development Plan, as long as there were relevant material considerations, or justifiable reasons for doing so. We acknowledged the council's position that the report of handling for the application set out the material considerations that had to be taken into account when determining the application and that this information was available to the Planning Committee when reaching their decision. However, the report of handling presented the material considerations with reference to the Local Development Plan and explained in detail why the Planning Officer considered the proposed development went against the Local Development Plan and why they recommended the application be refused. We found that there was a clear unexplained "leap" from the Planning Officer's recommendation to refuse, to the Committee's decision to approve. We considered that there should have been a clear record of the reasons for approving the planning application in the minutes of the Committee meeting and in the decision notice. We were critical of the council for failing to record the reasoning behind the Planning Committee's decision. Therefore, we upheld this aspect of C's complaint.

We were satisfied that the decision on whether to hold a pre-determination hearing was a discretionary decision for the council to make. We found no evidence to suggest that their decision not to hold a pre-determination hearing was unreasonable. Therefore, we did not uphold this aspect of C's complaint.

With regard to the council's handling of C's complaint, we found that there were excessive delays to the council's response, despite C chasing them on a number of occasions. We were critical of the council's delays and their failure to consider C's correspondence through their complaints procedure. We were also critical of the fact that, when the council issued their response, they failed to address the main points of C's complaint. We upheld this aspect of C's complaint.

Recommendations

What we asked the organisation to do in this case:

- Apologise to C for the poor handling of their complaint and provide a full response to their initial enquiry as to the Planning Committee's reasons for approving the application contrary to the Planning Officer's recommendation. The apology should meet the standards set out in the SPSO guidelines on apology available at www.spsso.org.uk/information-leaflets.

What we said should change to put things right in future:

- That the council consider how they may take steps to clarify complaints to ensure that they are progressed through the correct channel.
- That the council share this decision with members of the Planning Committee and remind them of the need to properly document the reasons for their decisions.

We have asked the organisation to provide us with evidence that they have implemented the recommendations we have made on this case by the deadline we set.