

SPSO decision report



Case: 201904682, Fife Council
Sector: Local Government
Subject: Handling of application (complaints by opponents)
Decision: some upheld, recommendations

Summary

C complained about how the council handled and assessed a planning application. The planning application related to a proposal for an extension to an existing business premises and was approved by the council. C's own business premises are located nearby and C raised concerns about how the extension would impact their business and the local area more generally. In response to C's complaint, the council acknowledged there were some failings in how the application was assessed and omissions in the Report of Handling. However, they concluded the application would have still been approved even if there were no failings in how it was assessed.

C complained that they did not think the council took appropriate action in response to the acknowledged failings and considered there to be other failings that the council did not identify in their stage 2 response. In addition to this, C complained about the council's sale of the land that the proposed extension is to be built on. In C's view, the sale of the land was not appropriately carried out by the council.

In respect of the first aspect of C's complaint, we took advice from an independent adviser with a background in planning. The advice we received, and accepted, was that there were further shortcomings in the assessment of the application and the content of the Report of Handling that were not identified by the council. While a number of C's outstanding concerns related to disagreements with the council's decision, we considered there to be examples of the council either failing to appropriately consider certain matters or not recording them in sufficient detail in the Report of Handling. As such, we upheld this complaint.

In respect of the second complaint, C was of the view that the land sold was classed as common good land and should not have been subject to sale. They also considered the council's sale of the land not to be in line with the European Commission's state aid rules. We concluded that the evidence did not support either of these conclusions and, therefore, did not uphold this complaint.

Recommendations

What we asked the organisation to do in this case:

- Apologise to C for failing to consider certain matters appropriately in their assessment of the planning application and for the fact that the Report of Handling did not contain sufficient detail about parts of their decision-making. The apology should meet the standards set out in the SPSO guidelines on apology available at www.spsso.org.uk/information-leaflets.
- Given the failings identified in both the council and our investigations, comment on their view remains that there are no grounds or good planning reasons to revoke the planning permission. Provide justification for the decision reached to both C and this office.

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

- Planning applications should be assessed thoroughly and in line with relevant guidelines. Reports of

Handling should be appropriately detailed and contain clear justifications for the conclusions reached.

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.