

SPSO decision report



Case: 202210537, Renfrewshire Council
Sector: Local Government
Subject: Handling of application (complaints by opponents)
Decision: upheld, recommendations

Summary

C complained that the council approved an application for non-material variation (NMV) to a planning consent, despite the variation significantly altering the originally agreed plot levels and having major effects on existing properties that bordered onto the new development. We took independent planning advice, which highlighted that it is ultimately a matter for the planning authority to determine whether or not a proposed change to a planning application is material. However, there should be clear and transparent records to support the council's decision making and justify their decision. The council accepted that was lacking in this case, in terms of the content of the worksheet for the NMV.

We found that the NMV worksheet did not contain sufficient information to explain why the council concluded that the change was non-material. The records did not adequately demonstrate that the council considered the potential impact on neighbouring properties, and continued compliance with the relevant Development Plan in this regard. It was not demonstrated e.g. via adequate / relevant cross sections through the site, how the council concluded that there was sufficient separation distances between new and existing properties. It would also have been good practice for the council to keep a record of any site visit carried out, recognising that there is no statutory requirement to visit the site.

While we found that the council failed to keep adequate records to justify their decision, it was not possible for us to determine that the decision to approve the changes as a NMV was incorrect. That remained a discretionary matter for the council. However, on the basis of poor record keeping, we concluded that the council's handling of the NMV application was unreasonable, and we upheld this complaint.

Recommendations

What we asked the organisation to do in this case:

- Apologise to C for the issues identified in this decision notice. 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:

- Worksheets for future applications for NMVs should provide sufficient detail to make it clear why a particular conclusion has been reached, including continued compliance with all relevant Development Plan policies. When a site visit is carried out in respect of an application, a record should be kept of that visit. The council should ensure that they have sufficient information to determine the application e.g. adequate / relevant cross sections.

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.