

## SPSO decision report

**Case:** 201101107, Fife Council  
**Sector:** local government  
**Subject:** policy/administration  
**Outcome:** some upheld, recommendations

### Summary

Ms C complained about the council's actions in relation to blasting by the operators of a quarry in her area. She said that the council failed to ensure that a full and complete environmental impact assessment was carried out on the residential area beside the quarry, before they approved blasting at the quarry for 20 years. We did not find any deficiencies in the environmental assessment and the associated process. A specific assessment on the residential area was not required.

Ms C also said that the council failed to ensure that there were adequate planning conditions in relation to the blasting at the quarry. She complained that the council had unreasonably given the quarry operators permission to carry out test blasting at the quarry with inadequate safeguards for public safety and public amenity. The council had allowed the blasting under an earlier planning consent, as the more recent consent had not been implemented at that time. We found that the blasting operations were not excluded from the earlier consent. However, the council had an agreement with the quarry operators that the conditions in relation to blasting in the more recent planning application would apply. We considered that this was to be welcomed from a practical point of view, as it allowed a detailed monitoring scheme for the blasting to be drawn up.

We were also satisfied that the council had put reasonable safeguards in relation to the blasting in place. They had taken the relevant national planning advice into account and there was also a scheme for monitoring blasting vibration in place. We found that it was appropriate for a firm of environmental consultants to monitor the blasts. It was also common practice for the results of the monitoring to be kept at the site and made available for inspection by the planning authority at all reasonable times. In addition, there was a notification procedure in place to inform residents of the blasts. That said, we did comment to the council that they should consider occasionally monitoring the blasts themselves. We also found that the council had delayed in responding to complaints about the blasting and upheld Ms C's complaint about this delay.

Ms C made a further complaint that the council had obtained evidence that a condition regarding the quarry's hours of operation was being breached, but had failed to take enforcement action. The council said that it was their position that they had monitored the noise level at the quarry and no harm was being caused. They stated that the quarry operators had made an application to change the operating hours. They said that no enforcement action would, therefore, be considered until a decision was made on this application.

If a member of the public complains to us that there has been administrative fault or service failure by an authority in reaching a decision, and that he or she has suffered injustice or hardship because of this, we may look at the complaint. We can consider the process and procedures involved. We cannot, however, question the decision if there is no evidence of maladministration. We found that the council had followed the correct procedures in relation to this matter. We were also satisfied that it was appropriate for the council's enforcement officer to advise the quarry operators to make an application to vary the condition in relation to the operating hours.

However, at an early stage in our investigation, the council's chief executive had given assurances that the council

would continue to monitor the operations at the quarry to ensure that there was no loading or unloading of lorries outwith the permitted hours. The council had failed to honour these assurances in view of their decision that no harm was being caused and enforcement action would not be taken.

### **Recommendations**

We recommended that the council:

- write to the Ombudsman and Ms C to explain why they failed to honour the assurances given that they would continue to monitor the operations at the quarry to ensure that there was no loading or unloading of lorries outwith the permitted hours.