

SPSO decision report

Case: 201103066, East Lothian Council
Sector: local government
Subject: handling of application (complaints by opponents)
Outcome: not upheld, no recommendations

Summary

Mr C raised a number of issues about the council's handling of a planning application and an application for Conservation Area Consent (CAC). Mr C felt that the report on the planning application was misleading and did not express balanced views. He maintained that Historic Scotland had expressed concerns about the development but that these were not included in the planning report or the CAC report. During our investigation the council confirmed that it was their responsibility as planning authority to determine applications and that there was no statutory requirement to consult with Historic Scotland on applications for CAC or planning permission. There was only a statutory duty to notify Historic Scotland of the council's proposed decision on CAC. However, in terms of best practice they had informally consulted Historic Scotland on the CAC application. When commenting on this, Historic Scotland had raised some concerns about the development, and while the council confirmed that these concerns were considered as part of the planning process they accepted that the concerns raised by Historic Scotland should have been reflected in the CAC application report.

After taking independent advice from a planning adviser, we did not uphold Mr C's complaint. We found that the report on the application demonstrated that all planning considerations had been fully considered, as had the issues raised by Historic Scotland. However, we felt that Historic Scotland's comments should have been included in both reports and we drew our views on this to the attention of the council.

Mr C also said that the council had unreasonably sought comments from Historic Scotland after the applications had been determined. We were satisfied that, in line with procedures, the council had notified Historic Scotland of their intention to grant consent for a CAC application after the committee meeting, giving Historic Scotland the opportunity to call-in the application if they disagreed with the council's decision. In this case Historic Scotland did not call the application in to Scottish Ministers. While we did not uphold the complaint, we drew to the council's attention that it would be good practice for the report on the CAC application to have explained that the decision to grant consent would be subject to notification to Historic Scotland.