

SPSO decision report

Case: 201104381, Forestry Commission Scotland
Sector: Scottish Government and devolved administration
Subject: policy/administration
Outcome: some upheld, recommendations

Summary

Mrs C complained about Forestry Commission Scotland (the commission) in relation to deer fencing in a rural area. A management plan had been developed for the area in relation to the introduction of native woodland, and, as part of this, under relevant forestry regulations Forestry Enterprise Scotland (an agency of the commission) were required to prepare an environmental statement as part of an Environmental Impact Assessment. The statement concluded that block fencing was the most appropriate for the area, as it would allow deer continued access to a lochside from the hillside as part of their natural seasonal movement. The Royal Society for the Protection of Birds and other bodies had, however, expressed concern about this fencing, feeling that this would increase the risk of black grouse (a UK protected species) hitting the fencing. The commission granted consent for the project under the regulations in 2008, with a condition attached in relation to the fencing, stating this would involve further assessment.

Mrs C later discovered that a ring fence was to be erected rather than the block fencing originally proposed. This would prevent deer access to the north of the lochside. Mrs C complained about this to the commission both at a local and national level, saying that the consent granted had been breached, and that concerns about deer welfare and the opinions of local residents and tourists had been disregarded. However, the commission said that this decision had been taken due to the concerns raised about black grouse, and that they did not consider the consent to have been breached. We did not uphold this complaint as we accepted the position of the commission. We noted that the information in the statement was not binding, the decisions made by the commission in relation to the consent were discretionary (ie they were decisions that they were entitled to make) and they were also given scope for review by the attached condition, although we did note that the changes were significant. We made recommendations in relation to the condition and registration process, so that in future the local community would be given the opportunity to be notified and further consulted where appropriate.

Mrs C also complained about communication failings. We upheld this, as we found that that the commission had failed to consult and communicate with the local community as had been informally agreed, but we also noted that the commission had since taken steps to address this. We did not uphold Mrs C's complaint that her complaints had not been dealt with impartially.

Recommendations

We recommended that the commission:

- review its procedures for the use of conditions related to consent under the Regulations, and establish a process and criteria for any submissions relative to conditions, assessment of these and decisions reached, to ensure clarity;
- develop an online database to ensure the application register and relevant documentation are accessible; and
- prepare a further written agreement clearly outlining advance notification periods they must adhere to in relation to advising the local community of continued implementation of the ongoing management plan for

the area.