

SPSO decision report

Case: 201200391, East Dunbartonshire Council
Sector: local government
Subject: policy/administration
Outcome: some upheld, recommendations

Summary

Planning consent was granted for the erection of 30 new houses. The planning consent included a condition that required the developer to submit a scheme for the treatment of Japanese knotweed growing on the site before commencing work. Mr C complained that the council allowed work to start before this condition was fulfilled. He also complained about delays to responses from the council to his complaint correspondence.

We did not uphold the complaint about the work starting too early. Our investigation found that the condition was worded in such a way that it only required a scheme to be submitted to the council. There was no requirement for the scheme to be approved or implemented before work started. We considered, however, that it was implied that an approved scheme, including proposed timescales for the treatment of the knotweed, should have been in place before work started. We found that such a scheme was submitted in good time, and was approved by the council subject to certain additional precautions being taken by the developer. The council worked with the developer to ensure these precautionary measures were in place.

When responding to Mr C's concerns, the council noted that the work that he described as having started was site clearance work rather than development. We accepted that in planning terms there is a difference between the two, and that there was no opportunity for the council to take enforcement action against site clearance work, which does not require planning consent. We were satisfied that the council fulfilled their role in planning terms, as they highlighted to the developer that specific action was required to prevent the spread of knotweed and ensured that a scheme for this was in place. Any subsequent work by the developer that may have caused the spread of this controlled species would have been a criminal offence and not a matter for the council as planning authority.

Whilst we were satisfied that the council did not permit development on the site before the required scheme was in place, we found their record-keeping to be poor and their communication on the matter to be confusing. We upheld this complaint and were critical of their failure to keep an adequate audit trail of their tracking and approval of the condition. We were also critical of their handling of Mr C's complaints correspondence. Some of the council's responses were delayed beyond their 20 working day target response time and one email received no response at all.

Recommendations

We recommended that the council:

- review their processes for tracking and approving conditions; and
- apologise to Mr C for the poor handling of his complaint.