

SPSO decision report

Case: 201200958, Argyll and Bute Council
Sector: local government
Subject: handling of application (complaints by opponents)
Outcome: not upheld, no recommendations

Summary

Mr C said that the council acted unreasonably when granting a planning application for two houses. He complained that in doing so they had acted contrary to the opinion of their own adviser and officers and against the wishes of the local community. He maintained that the permission granted was in conflict with the council's own structure and local plans.

We investigated Mr C's complaint, taking into account all the complaints correspondence, minutes of the relevant committee meetings and the relevant planning documentation. We also obtained independent planning advice on the matters involved.

Our investigation found that Mr C was correct, in that the council's own advisers had said that a previous planning permission had brought the area concerned to capacity, and planning officers had recommended that the new application be refused. A community plan adopted by the council to inform the decision making process was also against the award of planning permission. However, the independent advice we received confirmed that the council had discretion to determine applications by interpreting development plan policies in a particular way, or by giving whatever weight it wished to the material considerations (genuine planning considerations related to the purpose of planning legislation, which is to regulate the development and use of land in the public interest) that applied. Our adviser noted that development plans are not just for guidance, but also that they are not rigid instruments for determining planning applications. In this particular case, the adviser said, the council (via a delegated committee) had decided to approve the application and in doing so gave reasons why, together with their reasons for feeling that this was not a departure from the development plan. The adviser also went to explain that the community plan to which Mr C referred was non-statutory planning guidance, and the council had discretion as to the weight they gave it when making their decision.

Taking this advice into consideration we accepted that the council had acted in accordance with their discretion, and in awareness of all the relevant facts.