

SPSO decision report

Case: 201203158, Aberdeenshire Council
Sector: local government
Subject: handling of application (complaints by opponents)
Outcome: not upheld, no recommendations

Summary

Mr C said that a planning application was made to infill a small building site, which was approved by the council's area planning committee, subject to conditions. Shortly afterwards, he wrote to the planning department saying that the applicant for permission had provided incorrect information, particularly about ownership, and that the application should be declared invalid. The council looked into this but confirmed that the planning permission stood. Mr C complained that, despite his continued representations on the matter, the council took the view that although they had a duty to take action where an offence had occurred, the situation was not clear cut. They had said that they did not believe the applicant had knowingly and recklessly made incorrect statements. They said they had attempted to establish the situation but the applicant had declined to provide more detail - if the land was owned by someone other than the applicant, he would be unable to build, and ownership rights were a matter for the courts.

As part of our investigation, we obtained independent advice from a planning adviser. This confirmed that an applicant does not have to own the land for which they seek planning permission and that after receiving Mr C's allegations, the council had taken appropriate and reasonable action in the event that the applicant wished to reconsider his position.

Mr C also complained that the council failed to deal correctly with his representations about the application and said that rather than dealing with them in terms of planning, he was required to make a formal complaint through the council's complaints and feedback procedure. We looked at this procedure, and how the council had acted in relation to it, and found that the council had followed their policy.