

## SPSO decision report

**Case:** 201203684, The Highland Council  
**Sector:** local government  
**Subject:** handling of application (complaints by opponents)  
**Outcome:** some upheld, no recommendations

### Summary

Mr and Mrs C complained that the council did not follow the correct procedure when making their decision on a school planning application, which included a biomass boiler. They had concerns about the health implications, and said that the council did not appropriately take account of relevant guidance and material planning considerations. They also complained about the handling of their complaint.

There were environmental issues relating to this planning application, and the council explained that assessment of the application involved two key material considerations – the impact on the amenity of the area and local residents, in particular the visual impact, and the extent to which the facility complied with the guidance and regulations governing the operation and function of biomass boilers and associated emissions. The council also took into account the impact on residential amenity by reason of noise. The council explained that appropriate conditions were included on the planning permission and separate legislation is available to monitor emissions and noise.

In investigating this complaint we took independent advice from one of our planning advisers. He was satisfied that there were no procedural irregularities, with the exception of an oversight over the stack height. He pointed out, however, that a further assessment makes it clear the proposal falls well within the tolerances for control of emissions from such a stack. He confirmed that there are no grounds under planning policy and procedure for rejecting the biomass plant and stack application on health grounds. Health protection is not a material planning consideration unless there is specific planning guidance on the matter, especially where there are other regulatory frameworks in place to deal with the health impacts. He also noted that the council have policies for the use of biomass as a heating source for schools and that it is clear that the health consequences are not something they would take lightly.

We did not uphold the complaint about the planning decision as we were satisfied that the council took account of relevant guidance and material planning considerations in making their decision, and that they considered the concerns raised. We saw no evidence of anything wrong in the process, and we were satisfied they provided a detailed response to the complaint. However, while we noted that the council were moving between complaint processes at the time, we upheld the complaint about complaints handling as there were delays, a lack of information about what was happening, and a failure to signpost Mr and Mrs C to the next stage. As the council had already recognised these failings, apologised and taken steps to address them, we made no recommendations.