

SPSO decision report

Case: 201204443, Aberdeenshire Council
Sector: local government
Subject: handling of application (complaints by applicants)
Outcome: upheld, recommendations

Summary

Mr C had wanted to build a house and garage. He attended two pre-application meetings with the council's planning officer and was advised that his proposals might be viewed favourably in accordance with a rule in the local development plan (LDP), which favoured development for organic growth within 400 metres of certain settlements in the local area. Encouraged by this information, Mr C arranged for his architect to draw up plans and submit a full planning application. However, the planning officer then told Mr C that he had been given incorrect information about the 400 metre rule, that the place where he wanted to build was not included in the list of places to which the rule applied and his proposed development could not, therefore, be approved. The council explained that this error had occurred due to a new LDP coming into effect around the time of Mr C's pre-application meeting and full details of the 400 metre rule not being known at that time. Mr C was dissatisfied with the council's handling of his proposed development and sought reimbursement of the cost of preparing and submitting his planning application.

Although there was never any suggestion that Mr C had been told his planning application would be approved, we acknowledged that the information provided at the pre-application meetings gave him the confidence to prepare and submit a full application. We found that the new LDP had come into effect several weeks prior to Mr C's first pre-application meeting. Although its content would still have been open to legal challenge at that stage, we considered that there was enough information available to the planning officer at that time to advise Mr C that his proposed development would not be approved under the 400 metre rule. We considered that Mr C and his architect also had a responsibility to familiarise themselves with the LDP, but under the circumstances did not find it reasonable for the council to charge him for the planning application or advertising fees.

Recommendations

We recommended that the council:

- pay Mr C a sum of money to reimburse his planning application and advertising fees.