

SPSO decision report

Case: 201204998, The City of Edinburgh Council
Sector: local government
Subject: handling of application (complaints by opponents)
Outcome: some upheld, recommendations

Summary

Mr C complained about the council's handling of a planning application for a development in his area. He was concerned about the council planning and transportation officers' relationship with the developer and their agent, and believed that officers had acted inappropriately by advising the developer/agent how to circumvent the local plan for the area. Mr C said the planning department had misinterpreted Scottish Government guidance on whether a transport assessment was required for the development and that the planning and transportation departments colluded with a developer's agent to avoid a full traffic assessment.

We obtained independent advice on the case from a planning adviser. Our adviser said that Scottish Government guidance and planning policy made it clear that pre-application discussions between a developer and a council were actively encouraged, and were viewed as adding value at the start of the development management process. The fact that pre-application discussions took place between the developer's agent and the council in this case was, therefore, entirely reasonable.

We found no evidence of the planning department using inappropriate language in communications with the developer or that they became too friendly with the developer or their agent. Not did we find any evidence that the department exceeded their remit in the advice they provided on the local plan. To ensure transparency in the planning process, however, we considered that meetings with developers, including welcome meetings, should be minuted. We found that, on balance, the transport department did not collude with the developer's representative to avoid a traffic impact assessment.

In terms of the requirement for a transport assessment, we concluded that the interpretation of planning guidance was a matter of professional judgment for the council as planning authority. However, before exercising that judgement, the planning committee should have had full information to ensure that their decision was both transparent and well documented. This was a major planning application and the issue of increased traffic was a key matter. We considered that the information was incomplete, both in the report to the committee about the Scottish Government guidance on such assessments and in an external consultants' assessment commissioned by the council on the transport methodology used.

Recommendations

We recommended that the council:

- amend their website to ensure that it accurately reflects the content of their complaints procedure on planning complaints;
- feed back our decision on this complaint to the officers involved to prevent the failings identified occurring in future;
- make sure that their planning and transport departments ensure that relevant Scottish Government guidance and its application is clearly represented in planning reports; and
- provide Mr C with a written apology for the failings identified.