

SPSO decision report

Case: 201205182, The Highland Council
Sector: local government
Subject: handling of application (complaints by opponents)
Outcome: not upheld, no recommendations

Summary

The owners of the yard next to Mr C's house submitted a planning application for the replacement and relocation of their boiler house and drying kilns. Mr C complained that, although the application was approved with conditions attached to the permission, the council failed to enforce those conditions. He said that as a consequence he had suffered horrendous noise levels. Mr C alleged that the council failed to assess the impact of the planning consent on his home, failed to follow the correct procedures and pursue enforcement action, and failed to assess his subsequent complaint properly.

The complaint was investigated and we obtained independent advice from one of our planning advisers. We made further enquiries of the council, and gave all the relevant information (including planning documentation and all the complaints correspondence) careful consideration. The planning adviser said that the council acted reasonably and early by ensuring that a noise impact assessment report was obtained for the proposed development and was reflected in the conditions attached to the planning permission. When some of the conditions were not met, the council considered taking enforcement action but decided that it would be more appropriate to have their environmental health department lead on the matter of noise nuisance. The planning adviser confirmed that this was a reasonable decision, as enforcement action is discretionary and the environmental health department could use statutory measures to address matters that might otherwise be outside the scope of the planning authority. He noted that the council had retained the option of taking enforcement action should they wish to pursue it in the future.

Mr C undoubtedly suffered noise nuisance and we found that the council acted on his complaints about this, although not in the way he would have wished. We did not uphold his complaint, as it could not be said that they did not understand his complaint or failed properly to assess it.