

## SPSO decision report

**Case:** 201301822, Scottish Borders Council  
**Sector:** local government  
**Subject:** handling of application (complaints by opponents)  
**Outcome:** some upheld, no recommendations

### Summary

Mrs C complained to us about the council's actions in relation to planning permission that they granted for an agricultural building. She said that they had failed to take into account a legal agreement they had made with the applicant a number of years before. After taking independent advice from one of our planning advisers, we found that the council had considered the legal agreement, but were entitled to decide not to take any action against the applicant in relation to it. Mrs C also complained that the council failed to give the environmental impact of the application the level of scrutiny required by their policies and relevant plans. We considered that the environmental impact had been adequately assessed, and that they had not been required to consider alternative sites for the building.

Although in their report on the matter the council had not listed a policy that was particularly relevant to the application, and we upheld Mrs C's complaint about that, we found that they did consider the issues in the policy during the application and so the omission did not appear to have affected the outcome. We also found that, other than this, they had presented the relevant information. In addition, we found that they engaged reasonably with local residents who objected to the application. Finally, Mrs C said that the council had failed to take action against the applicant for misleading consultees during the pre-planning consultation process. We found, however, that it had been reasonable for them not to do so. There are no provisions in planning legislation for such action and the only redress for any issues arising from the pre-application consultation stage is through consideration of how these may have affected the merits of the application once it is made.