

SPSO decision report

Case: 201303305, Argyll and Bute Council
Sector: local government
Subject: handling of application (complaints by opponents)
Outcome: not upheld, no recommendations

Summary

Mrs C complained that the council acted unreasonably in granting temporary planning permission for a mast to be erected on the Isle of Orsay (an uninhabited island). The mast was intended to collect meteorological information essential for the development of an offshore wind farm near Islay. The wind farm had been designated a project of national importance by the Scottish Government, and the planning application for it was to be considered by the government, rather than the council.

Mrs C said that the council had not taken account of Orsay's special protected area (SPA) status under European law, and they had not given sufficient weight to objectors' requests for an environmental impact assessment. Mrs C also felt the council's decision was inconsistent with a previous planning decision on a proposal to site the mast nearby. She said that the council's actions contravened the Aarhus Convention (a European convention establishing a number of rights of the public with regard to the environment) in relation to public participation and environmental information.

We took independent advice from our planning adviser, who said that the mast could not be considered to have the same impact as a wind turbine because of the difference in size, and that the temporary nature of the permission was an important consideration. Orsay's SPA designation had been addressed in Scottish National Heritage (SNH)'s response to the council's planning consultation and the council acted reasonably in relying on this in their decision. He also said that the council were entitled to decide how much weight to give to information from objectors. They had to bear in mind that a decision giving too much weight to objections from members of the public, as opposed to advice received from SNH as a specialist body, would have been open to challenge. The adviser said the application for the alternative site was withdrawn before the council could consider it, so no precedent was set, and in their decision the council could give no weight to the applicant's decision to withdraw. The adviser went on to say that he did not consider that the principles of the Aarhus Convention had been breached and that the council's approach to the hearing had reflected general good practice.

Overall, our investigation found that the council acted reasonably and in accordance with general good practice in determining the planning application. The decision they reached was one that they were entitled to make and they acted within their discretionary powers when considering submissions from objectors to the application.