

SPSO decision report

Case: 201304125, Dumfries and Galloway Council
Sector: local government
Subject: policy/administration
Outcome: some upheld, recommendations

Summary

Mr C lives near a holiday chalet park with a history of planning applications and amendments. The council had approved a retrospective planning application, subject to four conditions. He complained to us about the way they handled a number of planning issues, including a failure to follow correct development plan policies, and to enforce the consent conditions. He also said there was unauthorised activity at the site, and was unhappy with the council's complaints handling.

We took independent advice on this case from one of our planning advisers. We upheld Mr C's complaints about unreasonable failure or delay by the council to respond to and investigate information about unauthorised excavation and development at the site. The council had accepted there was an unacceptable delay in acting on information received from Mr C, and that their expected standard of service had fallen short. We took the view that these were serious failings which had, understandably, caused Mr C to lose confidence in the council (in its role as the planning authority) and to question their actions in relation to the chalet park.

We did not, however, uphold Mr C's other complaints. Although the council had omitted a specific reference to certain development plan policies in the report of handling, we found no evidence that the council had not followed these policies. We accepted that they had a right to exercise their discretion and to decide on the application as they saw fit. We also found no breaches of the consent conditions for the council to enforce and were satisfied that the council had adequately investigated Mr C's complaint. However, as there had been a lack of a full explanation on some matters in the report of handling and in the council's complaints correspondence with Mr C, we made recommendations to address this.

Recommendations

We recommended that the council:

- ensure that our adviser's comments in relation to the omission of the policies in the report of handling, the lack of detail in the report and lack of explanation of how the council's judgement was exercised in relation to the planting scheme are brought to the attention of the relevant council staff and ensure that all relevant policies are appropriately referenced in reports of handling;
- ensure that our adviser's comments about a lack of an explanation of how the council's judgement was exercised in relation to the discharge of one of the consent conditions are brought to the attention of the relevant council staff;
- in relation to the failure to address this matter within the council's complaints process, remind staff of the need to ensure they provide full explanations when investigating and when responding to complaints;
- provide us with details of the steps the council now have in place to ensure the error referred to does not reoccur;
- apologise to Mr C for their failure to provide him with a proper explanation concerning the omission of relevant policies in relation to a regional scenic area from the report of handling;
- in relation to the failure to address this matter within the council's complaints process, remind staff of the need to ensure they provide full explanations when investigating and when responding to complaints;
- issue Mr C with an apology for having unreasonably failed to and/or delayed in responding to information received from him about unauthorised works at the site;
- issue Mr C with an apology for a failure to initially investigate reports of unauthorised development at the site;
- advise us on the current position in relation to monitoring of the development site; and
- ensure that our adviser's comments in relation to the lack of a proper explanation are shared with the relevant staff.

SPSO decision report

Case: 201304125, Dumfries and Galloway Council
Sector: local government
Subject: unauthorised developments: calls for enforcement action/stop and discontinuation notices
Outcome: no decision reached

Summary

Mr C originally submitted a complaint to us in June 2012 (case 201201234) about development at a holiday park. We issued a decision in February 2013 in which we upheld the complaint. Mr C then made a related and follow-up complaint (case 201302324) to us. He complained that the council unreasonably failed to follow the correct policies and procedures in relation to the landscaping consent conditions on a planning application, to enforce the consent conditions, and to follow their own policy about a regional scenic area.

Mr C made a further related complaint (201304125) that the council delayed in responding to information about unauthorised excavation works and failed to investigate reports of unauthorised development. We, therefore, closed complaint 201302324 and merged it with complaint 201304125 as we considered that both should be dealt with together. Mr C then told us he was intending to make a further complaint about the same development. We, therefore, closed complaint 201304125 pending receipt of the new complaint from Mr C so that all complaints relating to the development could be considered at the same time.