

SPSO decision report

Case: 201404818, Directorate of Planning and Environmental Appeals
Sector: Scottish Government and devolved administration
Subject: handling of application (complaints by opponent)
Outcome: some upheld, recommendations

Summary

Mr C contacted the Directorate of Planning and Environmental Appeals (DPEA) about an appeal concerning an application for a wind farm. His complaint was about the DPEA's handling of the appeal. Specifically, he believed that all the submissions he had made when the application was with the planning authority had not been considered by the DPEA; his correspondence had not been responded to during the appeal process; a deadline date if he wished to take the next step of appeal to the Court of Session had not been provided; there had been a delay following the decision to respond to his correspondence; and that the DPEA had failed to respond fully and accurately to his complaint.

Following our investigation, we found that, although after the appeal was decided Mr C had sent the DPEA an email of the representations he sent to the planning authority about the planning application for a wind farm, the DPEA were not aware of this email earlier. This was because it had not been part of the documents provided by the planning authority. Mr C did not know this, but we concluded the DPEA were not at fault because they were not made aware of Mr C's email until he contacted them after the appeal had been decided. We found that the DPEA had failed to respond on two occasions to emails sent by Mr C. The failure had been recognised on one occasion but not on the other, and we recommended an apology in recognition of this. We did not comment on the subject of the email, except to suggest that it would have been an opportunity to provide an explanation about the process (site visit).

On the advice given by the DPEA about the deadline for an appeal to the Court of Session, we found that advice about the timescale was given properly in the decision letter and in response to Mr C's emails. However, we suggested to the DPEA that they consider improvements in their engagement with interested parties about the appeal process by better signposting, and by producing an information leaflet. We found that Mr C's complaint was not handled in accordance with the DPEA's complaints procedure as a response was not sent within the target time, and no explanation had been provided to him for the delay.

Recommendations

We recommended that the DPEA:

- apologise to Mr C for the failure to respond to an email he sent;
- consider improvements to the information provided to interested parties by signposting to their website and making an information leaflet available; and
- apologise to Mr C for the administrative errors identified in their complaints handling procedure in place at the time.