

## SPSO decision report

**Case:** 201507475, Fife Council  
**Sector:** local government  
**Subject:** handling of application (complaints by opponents)  
**Outcome:** some upheld, recommendations

### Summary

Mr C objected to a planning application that was subsequently granted. Mr C had raised various concerns with the council and was unhappy with the council's handling of these concerns, including in relation to insulation boards and solar panels. In particular, he felt that the council had failed to properly assess non-material variation (NMV) requests; that they had failed to properly identify and address concerns about deviations from the approved plan and potential breach of planning conditions; that they had failed to correctly implement their NMV guidelines; that they had not properly fed back the outcome of his complaint to relevant staff; and that they had not posted the NMV details online, which they said they would do.

We sought independent planning advice. We noted that the council had already acknowledged and upheld some of Mr C's complaints. We upheld Mr C's complaints about the assessment of the NMVs. We also upheld Mr C's complaint in relation to the council having failed to properly identify and address appropriately concerns about deviations from the approved plan. The adviser felt that the NMV guidelines had unreasonably raised Mr C's expectations.

We noted that some of Mr C's concerns about development had not been considered and responded to by the council. We also found that the council had failed to feed back the outcome of the complaint to the relevant officers and that the NMV information had not been posted online. However, we were satisfied that the council had apologised to Mr C for this and had taken action to prevent a similar situation occurring in future.

### Recommendations

We recommended that the council:

- review the NMV guidelines to ensure that it is clear to members of the public that these are guidelines only and the council has discretion to depart from them;
- consider and respond to Mr C's concerns about the change of insulation boards and omission of solar panels;
- review the circumstances giving rise to Mr C's complaint that they failed to properly identify and address appropriately concerns about deviations from the approved plan and potential breach of planning conditions and provide evidence that they have taken action to prevent a similar situation occurring in the future; and
- when reviewing the NMV guidelines, consider whether these need to make clearer that some variations can be approved through a planning condition on the original planning permission.