

SPSO decision report

Case: 201508079, The Highland Council
Sector: local government
Subject: handling of application (complaints by opponents)
Outcome: upheld, recommendations

Summary

Mr and Mrs C complained to us about the handling of a planning application for a wind turbine on land next to their property. They were concerned that the applicant had submitted inaccurate plans and that the application was registered under an inaccurate address. They were also concerned that the council had not fully assessed the impact of noise and that once the turbine was running, it created a noise nuisance.

We took independent advice from a planning adviser. The adviser noted the poor quality of the location plans provided with the application and the inaccurate address. They were, however, satisfied that the noise impact assessment and other information provided to the planners by the environmental health service and the energy company were reasonable.

During our investigation it became apparent that there was confusion over whether distances related to the curtilage of Mr and Mrs C's property or their house. This was not evident from the council's records, and created significant confusion as to whether the planning application had been appropriately handled. Mr and Mrs C also raised concerns that there had been a lack of enforcement action in relation to the mast that remained in place, despite conditions on its removal.

Based on the inaccuracies in plans and the lack of evidence of appropriate consideration of the distances involved, we upheld the complaint, and made recommendations to address the issues raised.

Recommendations

We recommended that the council:

- apologise to Mr and Mrs C for the failings identified in our investigation;
- share the findings of this investigation with those staff involved in validating planning applications, to ensure that the council's check-list for applications is applied consistently;
- consider whether the planning officer involved would benefit from further training in the application and use of planning conditions; and
- consider the use of the council's planning enforcement powers in relation to the current situation.