

SPSO decision report

Case: 201605070, The Highland Council
Sector: local government
Subject: handling of application (complaints by applicants)
Outcome: upheld, recommendations

Summary

Mr C complained that the council unreasonably rejected his planning application on the basis of reasons which were outwith their jurisdiction. He said that as a result he had to appeal to the local review body, who granted consent, and that this process resulted in additional costs for him.

We found that the council rejected the application on grounds which did not appear to fall within the remit of the planning authority. The rejection focused on an element of the application which related to the marine environment and which was subject to licensing through Marine Scotland, rather than the planning authority. We noted that, where there was doubt about jurisdiction, this should be reflected in the planning officer's report and that this did not happen in this case. We also noted that no reference to the relevant Scottish Government planning circular was made in the officer's report and that the officer failed to fully explain their assessment of the proposals against the planning policy which was used to refuse the application. For these reasons, we upheld the complaint.

Recommendations

We recommended that the council:

- write to Mr C to apologise for their decision to refuse planning permission on grounds which fell outwith their jurisdiction; and
- reflect on their handling of Mr C's planning application and consider how best to ensure that officers are clear as to the implications of Circular 1/2015 and their responsibilities to justify decisions detailed in their reports in terms of all relevant planning policies.