

SPSO decision report

Case: 201702042, Scottish Environment Protection Agency
Sector: Scottish Government and devolved administration
Subject: handling of application
Decision: some upheld, recommendations

Summary

Mr C lives near the site of a former opencast mine where works were taking place. He accesses his home via a road running adjacent to the site. Mr C complained that the Scottish Environment Protection Agency (SEPA) failed to properly consider an application he made to them. He was also unhappy that SEPA had accepted the local authority's view that the works involved had permitted development status. Mr C said that, as a result of SEPA dealing incorrectly with the application he made to them, his access to his home was sometimes impeded by flood water.

We took environmental health advice. We found that, with regards to the application, the developer had made an explicit statement that planning consent for the site was not required, and that this statement had been confirmed by the local planning authority. We found that SEPA, as a licencing authority, had no capacity in the matter of flood risk that Mr C had complained about, and that this was a matter for the planning authority. As such, we did not uphold the complaint.

Mr C also complained that SEPA had not dealt reasonably with his complaint. We found that there had been delays in SEPA handling Mr C's complaint, and that it had not been dealt with in accordance with the stated complaints handling process. We upheld this aspect of the complaint.

Recommendations

What we asked the organisation to do in this case:

- Apologise to Mr C for the delay in responding to his complaint. The apology should meet the standards set out in the SPSO guidelines on apology available at <https://www.spsso.org.uk/leaflets-and-guidance>.

In relation to complaints handling, we recommended:

- Complaints should be dealt with in accordance with the stated complaints handling procedure.

We have asked the organisation to provide us with evidence that they have implemented the recommendations we have made on this case by the deadline we set.