

## Scottish Parliament Region: Central Scotland

### Case 200502045: Scottish Executive Inquiry Reporters Unit

#### Summary of Investigation

##### ***Category***

Scottish Executive Inquiry Reporters Unit: Handling of application (complaints by applicants).

##### ***Overview***

The complaint concerned the way in which a planning application was handled. In particular, there was an allegation that the Inquiry Reporter misdirected himself.

##### ***Specific complaint and conclusion***

The complaint which has been investigated is that the Inquiry Reporter misdirected himself and refused the appeal on grounds that did not pertain to the application made (*not upheld*).

##### ***Redress and Recommendations***

The Ombudsman has no recommendations to make.

## **Main Investigation Report**

### **Introduction**

1. The Ombudsman received full details of the complainant's (Mr C's) complaint on 6 March 2006. Mr C said that he acted on behalf of the aggrieved parties (Mr and Mrs A) with regard to a planning matter and that his clients had made two applications for outline planning consent: one in 2003 for a house with an integral garage and another in 2004 for a house only. Mr C said that he appealed the planning authority's decision on the second application to the Scottish Executive Inquiry Reporters Unit (SEIRU) in April 2005 but he alleged that the Inquiry Reporter (the Reporter) misdirected himself when he refused the appeal on specific grounds which did not pertain to the application made.

2. The complaint from Mr C which I have investigated is that the Inquiry Reporter misdirected himself and refused the appeal on grounds that did not pertain to the application made.

### **Investigation**

3. The investigation of this complaint involved obtaining and reading all relevant documentation, including correspondence between Mr C and SEIRU. I have also had sight of the planning applications made by the complainant on behalf of his clients (see paragraph 1) and the planning authority's subsequent decisions. On 12 May 2006, I made a written enquiry of SEIRU and their reply and associated documentation were received on 2 and 9 June 2006 respectively.

4. While I have not included in this report every detail investigated, I am satisfied that no matter of significance has been overlooked. Mr C and SEIRU were given an opportunity to comment on a draft of this report.

### **Complaint: The Inquiry Reporter misdirected himself and refused the appeal on grounds that did not pertain to the application made**

5. Mr C said that he appealed to SEIRU about the planning authority's decision to refuse the outline planning application he had made on behalf of his clients in 2004 (for a house only). However, he said that the decision he received from the Reporter, dated 15 September 2005, referred to his clients' application for 'outline planning permission for the erection of a dwelling house with an integral garage

and driveway/car parking'. He concluded from this that the appeal decision was based on a factual error.

6. From the information available to me, I am aware that Mr C's appeal to SEIRU was received on 13 April 2005. It was found to be incomplete and he was asked to provide outstanding information, including a copy of the application which was submitted to the planning authority and copies of the relevant plans.

7. Mr C replied on 24 April 2005, heading his letter with planning references from both outline planning applications (see paragraph 1). He enclosed his appeal form, which gave the 2003 planning reference for the outline planning application for a house with a garage. Similarly, the application form he sent made reference to a 'Proposed new dwelling house with integral garage and driveway/car parking'. Plans enclosed were dated 2003 and 2004 and showed both a house with a garage, and without, on a site that was essentially the same.

8. On receipt of this information and prior to a decision being reached on his clients' appeal, arrangements were made for the Reporter to make a site visit on 4 August 2005. While Mr C had submitted both planning application plans (see paragraph 7), SEIRU said in their formal response to me that Mr C clarified the plan to which his appeal related and pointed out the site boundaries to the Reporter at the site visit.

9. The Reporter reached his decision and confirmed it in a letter to Mr C dated 15 September 2005. The letter is headed 'Planning Appeal by [Mr and Mrs A]: Erection of a house at...', although part of the subsequent text made a reference to Mr C's clients having sought outline planning permission for the erection of a dwelling house with an integral garage and driveway/car parking. Reference was also made to the planning authority's stated reasons for refusal, which related specifically to a house without a garage and it was these reasons that the Reporter considered in his decision.

### *Conclusion*

10. Mr C provided conflicting information to SEIRU (see paragraph 7). Nevertheless, I am satisfied from the Reporter's decision, despite the reference to a house with an integral garage (see paragraph 9), that the Reporter addressed the refusal about which Mr C and his clients were concerned. The Reporter went

on to refuse the appeal but the merits of this decision are not open to consideration by this office as an appeal existed to the Court of Session. Therefore, in all the circumstances, I do not uphold this complaint.

31 October 2006

**Explanation of abbreviations used**

Mr C	The complainant
Mr and Mrs A	The aggrieved parties
The Reporter	The Inquiry Reporter
SEIRU	Scottish Executive Inquiry Reporters Unit