

## Scottish Parliament Region: Mid Scotland and Fife

### Case 200603184: Fife Council

#### Summary of Investigation

##### **Category**

Local government: Planning; enforcement of planning conditions

##### **Overview**

The complainants (Mr and Mrs C) raised concerns about the handling by Fife Council (the Council) of their representations about breaches of a planning consent granted for change of use of adjacent premises (the Premises) to a restaurant/takeaway and for the installation of an external flue.

##### **Specific complaints and conclusions**

The complaints which have been investigated are that the Council:

- (a) failed to enforce conditions attached to the planning consent which were imposed to protect the amenity of neighbours (*partially upheld*);
- (b) otherwise failed to resolve the effect on Mr and Mrs C's amenity of noise and odours emanating from the Premises (*partially upheld*); and
- (c) took an unacceptable length of time to deal with Mr and Mrs C's complaints and did not keep them properly updated (*upheld*).

##### **Recommendation**

The Ombudsman recommended that the Council:

- (i) review the wording of conditions used in their planning consents with particular reference to the appropriateness of using a condition such as condition 3 with the present wording;
- (ii) actively continue to monitor compliance with the planning consent issued on 30 June 2003; and
- (iii) apologise to Mr and Mrs C for the failings in the Council's handling of their complaints.

The Council have accepted the recommendations and will act on them accordingly.

## Main Investigation Report

### Introduction

1. The complainants (Mr and Mrs C) have resided in their home for 45 years. It is fully double glazed and, some sixteen years ago, they replaced an existing conservatory at the rear. Their complaint stems from the administration by the Development Services of Fife Council (the Council) of an application for planning consent made for a change of use of adjacent premises (the Premises) to a restaurant/takeaway and for the installation of an external flue. That application was granted conditional planning consent on 30 June 2003. Mr and Mrs C are aggrieved at the actions of the Council's Development Services and the Council's Environmental Services in ensuring compliance with the conditions attached to the planning consent.

2. The complaints from Mr and Mrs C which I have investigated are that the Council:

- (a) failed to enforce conditions attached to the planning consent which were imposed to protect the amenity of neighbours;
- (b) otherwise failed to resolve the effect on Mr and Mrs C's amenity of noise and odours emanating from the Premises; and
- (c) took an unacceptable length of time to deal with Mr and Mrs C's complaints and did not keep them properly updated.

### Investigation

3. The investigation is based on information supplied by Mr and Mrs C and the Council's response to my enquiries. I have not included in this report every detail investigated but I am satisfied that no matter of significance has been overlooked. Mr and Mrs C and the Council were given an opportunity to comment on a draft of this report.

- (a) The Council failed to enforce conditions attached to the planning consent which were imposed to protect the amenity of neighbours; and**  
**(b) The Council otherwise failed to resolve the effect on Mr and Mrs C's amenity of noise and odours emanating from the Premises**

4. Mr and Mrs C live in a terraced property, next door but one to the Premises which were formerly used until 2002 as a shop. In December 2002, an application was submitted to the Council for change of use from shop (class 1) to form restaurant/takeaway (class 3) and for the installation of an external flue. That application was the subject of a report by the Council's

Planning and Building Control Services Manager. The report recommended refusal. After deferring consideration on 5 February 2003 for a site visit, the Council's West Area Development Committee (the Committee) agreed to refuse the application as being contrary to policies in the relevant Local Plan to retain class 1 retail use and, since it bounded against the curtilage of a residential property in a terraced row, could result in disturbance and late night activity to the detriment of the amenity of the adjoining residents.

5. A further application for change of use from shop (class 1) to form restaurant/takeaway (class 3) and installation of external flue (the Application) was registered on 7 April 2003. A report dated 24 June 2003 was submitted by the Council's Head of Law and Administration to the Committee on 25 June 2003 again recommending refusal. The Committee decided to grant full conditional planning permission and the planning consent was issued on 30 June 2003 subject to six conditions:

- 1 the development hereby approved shall be implemented in accordance with the plan(s) stamped as forming part of this permission unless a variation is required by a condition of the permission or a non-material change has been agreed in writing by the Planning Authority;
- 2 no music and/or any other amplified sound shall be audible at the boundary of any neighbouring noise sensitive premises;
- 3 all plant machinery and equipment, including heating and ventilation equipment, shall be so installed, maintained and operated, so as to prevent the transmission of noise, vibration, fumes or odours to any neighbouring sensitive premises;
- 4 a mechanical ventilation system requires to be provided over the cooking range and fitted with grease and odour filters;
- 5 the outlet from the mechanical ventilation system should be so installed to such a height and so positioned to prevent any odours which may be emitted from it entering neighbouring premises. Details of the system to be submitted to and approved by the Planning Authority prior to its installation and the commencement of use of the Premises; and
- 6 the Premises shall only be open for trade between 11:30 and 23:30 on any day and at no other time.

6. The reason given by the Council for the imposition of conditions 2 to 6 was 'to protect the amenity of any neighbouring sensitive premises'. In response to my enquiry the Council informed me that neither condition 3 nor condition 5 was on the Council's list of standard conditions, but that condition 3 had been used

often and that condition 5 was taken from the Council's Environmental Services' response to the consultation on the Application.

7. The ventilation system for the Premises was initially situated on a rear balcony facing the door of Mr and Mrs C's conservatory. Mr and Mrs C were concerned at odours emanating from the Premises and in February 2004 contacted the Council's Development Services and the Council's Environmental Services. Between 17 February 2004 and 3 March 2004 they kept a daily diary of odours emanating from the Premises, the times these occurred, the times the ventilation system was switched on, where the odours were, and the prevailing weather conditions (including winds).

8. On 5 March 2004 Mr and Mrs C wrote to their then local councillor complaining of noise from the ventilation system and unacceptably strong cooking odours. They complained specifically about the position of the ventilation system on the Premises and about the limited period afforded to them each day to hang out washing or to sit in their garden. They pointed out that the restaurant was one of eight on their road.

9. As a result of Mr and Mrs C's contact, noise level recordings were taken by a Council Environmental Officer (Officer 1). On 6 April 2004, after speaking with a Council Planning Officer (Officer 2), Mr and Mrs C wrote to the Council's Chief Planning Officer seeking compliance with the conditions attached to the planning consent for the Premises.

10. Mr and Mrs C's letter was passed to a Council Planning Enforcement Officer (Officer 3) on 7 April 2004. He visited the site discreetly on 21 and 28 April 2004, and on 11 May 2004 he responded to Mr and Mrs C. He informed them that he was presently considering whether there was a breach of planning control. He visited Mr and Mrs C on 14 May 2004.

11. Mr and Mrs C had, in the meantime, been concerned at a lack of response to their concerns and complained to the Council's Development Services on 29 April 2004. A Council Planning Team Leader (Officer 4) responded to Mr and Mrs C on 4 June 2004. Officer 4's letter detailed the previous involvement of the Council's Development Services and the Council's Environmental Services. He stated that monitoring by the Council's Environmental Services was ongoing and that if a breach of planning control was indicated, then the Council's Development Services would pursue the

matter through enforcement action. Officer 4 advised Mr and Mrs C of their ability to further pursue their complaint.

12. Mr and Mrs C responded on 15 June 2004 detailing continuing problems of noise vibration, fumes and odours and stated that they had observed when washing their windows that a brown oily film required to be removed.

13. Officer 1 visited Mr and Mrs C on 14 June 2004 and wrote to them on 21 June 2004 enclosing a memo he had written to Officer 3, which stated that he did not consider the increase in noise (of the order of 5 dBA) constituted a statutory nuisance, but that it would appear that there was breach of the planning condition. He had sent samples of his air sampling and a swab of the oily deposition to the Public Analyst and awaited a report.

14. Mr and Mrs C wrote to the Council's Chief Planning Officer on 5 August 2004 alleging that there had been breaches of conditions 3 and 5 of the planning consent and that they were experiencing intrusive noise and nauseating odours. Their letter was passed to Officer 3. He replied to Mr and Mrs C on 13 August 2004 stating that he had approached the agent (the Agent) for the operator of the Premises (the Operator) with evidence that the ventilation system was presently operating in breach of the planning permission and had sought modification or replacement with a new system acceptable to the Council. Mr and Mrs C responded that they were happy about the conclusion reached, but disappointed that it had taken six months.

15. After Mr and Mrs C seeking an update on 13 September 2004, Officer 3 responded on 5 October 2004 stating that the Agent had confirmed on 23 August 2004 that they had been in contact with the company who had installed the ventilation system to investigate how it might be improved. He had followed this up with a reminder on 24 September 2004. A notice under Section 272 of the Town and Country Planning (Scotland) Act 1997 had been responded to by the Operator's solicitors. Officer 3 left the Council's service shortly thereafter.

16. The matter was passed to another Council Planning Enforcement Officer (Officer 5). He informed Mr and Mrs C by letter of 18 November 2004 of Officer 3's departure, and that he would pursue the matter in the interim until a replacement was found.

17. Mr and Mrs C explained their continuing problems including the necessity to dry their washing indoors in letters of 6 and 9 December 2004. Officer 5 replied that he would give the parties involved until 10 January 2005 to respond, following which the Council's Development Services would consider the matter further.

18. After Mr and Mrs C sought an update on 11 January 2005, Officer 5 confirmed by letter of 27 January 2005 that he had had a meeting on site. Discussions had taken place with the Operator on a solution to move the ventilation flue and fan to a location further from the boundary shared with Mr and Mrs C, raise the height of the flue slightly, narrow the top opening and encase the fan in an acoustic jacket. Officer 5 had asked for the proposed remedial work to be implemented as quickly as possible.

19. Shortly after this, Mr and Mrs C wrote to their Member of the Scottish Parliament (the MSP) complaining that the Operator arrived each day well before 11:30 to prepare food, switched on the ventilation system from that time, and that it continued to operate in the afternoons after the owners temporarily closed the Premises before opening for business. Their letter of 14 February 2005 was copied to the Council by the MSP.

20. Mr and Mrs C wrote again to Officer 5 on 15 February 2005. He confirmed by reply of 23 February 2005 that the proposals remained under consideration by the Council's Development Services and the Council's Environmental Services. Officer 5 awaited their comments before proceeding. He informed Mr and Mrs C that he would not wish to dismiss any proposed suggestions unless it was evident that no improvement could be realised with their implementation. The Council's Planning Services Manager (Officer 6) responded to the MSP and copied to her Officer 5's letter.

21. Following a further letter from Mr and Mrs C of 14 March 2005 in which they envisaged being trapped in their homes during the summer due to noise and odours, Officer 5 responded on 24 March 2005 that he had the Council's Development Services' comments but awaited those of the Council's Environmental Services. He had reminded them that he urgently awaited a reply. In the meantime, a report would be prepared for the Committee seeking approval to take any necessary action to have the existing flue removed, if that approach was considered appropriate in the circumstances.

22. Mr and Mrs C wrote again to Officer 5 stating that matters appeared to have got worse. They also wrote to the MSP again on 30 April 2005 and 10 May 2005.

23. On 3 May 2005 Officer 2 wrote in response to the Agent's letter of 7 February 2005 confirming that relocation of the fan box and extract terminal away from the southern boundary, and proposals for further airflow and acoustic measures could, in the view of the Council's Environmental Services, reduce the noise levels being experienced by adjoining residents. With regard to odours, the Council's Environmental Services had advised that the provision of activated carbon or similar addition to the system would reduce cooking odours. Officer 5 stated that on the basis of these measures, condition 5 of the planning permission was discharged. He requested that the measures be completed within 28 days. This letter was copied to Mr and Mrs C and to the MSP.

24. On 11 May 2005, a report dated 29 March 2005 was put to the Committee seeking authority to take enforcement action.

25. Mr and Mrs C and a neighbour (Mr B) whose house adjoined the Premises pursued with the Council's Area Manager, Environmental Services, the delay of three months in the Council's Environmental Services providing comments to the Council's Development Services on suggested measures to reduce odours and noise. The Council's Environmental Services Team Leader (Officer 7) acknowledged by reply of 3 June 2005 that Officer 1 had taken three months to respond but he had apologised to the Council's Development Services for the delay. Officer 1 had by then left the Council's service. Officer 6 offered to meet with Mr and Mrs C after he returned from leave.

26. No immediate action was taken to relocate the flue and alter the ventilation system and Mr and Mrs C and Mr B wrote to Officer 5 on 3 June 2005 and to the MSP on 9 June 2005. Officer 5 first confirmed to Mr and Mrs C on 13 June 2005 that the Operator had been informed that an enforcement notice would be served in 14 days, but followed this up on 24 June 2005 by informing them that the Agent had stated they intended to install the authorised flue in four weeks. Officer 5 stated that service of the enforcement notice would be delayed to 25 July 2005. This letter was copied to the MSP. Mr and Mrs C and Mr B responded to Officer 5 on 24 June 2005 stating that they were not happy with the further delay.

27. Mr and Mrs C wrote again to Officer 5 on 27 July 2005, after the implementation of the agreed measures by the Operator, stating that when operating, the ventilation system remained audible and that there were no improvements in odours. The MSP also wrote on behalf of Mr and Mrs C and Mr B to Officer 5 and Officer 6 on 11 August 2005.

28. Officer 7 responded to the MSP on 25 August 2005 confirming that an air sample test for oil and grease fumes had been carried out (on 18 August 2005) and submitted for laboratory analysis and a noise assessment would be carried out in the near future. (That assessment was carried out by Officer 7 and a colleague in early September 2005. The Public Analyst's report on the air sample of 16 September 2005 found no presence of oils and fats). Mr and Mrs C commented that the Council imposed on them the day when the air monitoring should occur and that on that day the slight wind there was veered away from their home.

29. Officer 1 confirmed in a reply to the MSP of 29 August 2005 that condition 3 of the planning consent (paragraph 5) had not been discharged. The condition required ongoing compliance. He advised that in the event that residents were to allege that they were continuing to experience disamenity in relation to the operation of the Premises, they could continue to bring this to the attention of the Council's Development Services for further investigation and monitoring.

30. Mr and Mrs C and Mr B wrote to Officer 5 on 27 October 2005 stating that they were still suffering from noise and odours. In a response of 7 November 2005, a Lead Officer in the Council's Development Services (Officer 8) informed Mr and Mrs C and Mr B that, with the departure of a senior colleague, he had been tasked with progressing the matter and intended to report to the Committee in December 2005 or January 2006.

31. On 16 November 2005, the MSP wrote to the Council's former Chief Executive expressing the continuing concern of the affected residents that the works carried out in July 2005 had not solved the problem of noise or fumes. The Council's former Chief Executive in his reply to the MSP stated that the relocation of the flue had led to a complaint from other neighbours that television reception from their satellite dish had been affected. As an interim measure, the top of the new flue had been removed. The Council's former Chief Executive stated that the Council's Environmental Services were satisfied



that no statutory noise nuisance existed. A site meeting had been planned with a local councillor but had had to be postponed to accommodate him.

32. A meeting took place on 23 January 2006 and involved Officer 7, Officer 8 and the local councillor. Officer 8 subsequently met with Mr and Mrs C and Mr B on 25 January 2006. Mr and Mrs C stated that they were first made aware at that meeting that part of the new flue installed in July 2005 had been removed. Officer 8 wrote to the MSP on 2 February 2006 advising her of the meetings and the outcome, namely that a jet type cowl would be fitted to the flue to increase dispersal of odours, that the satellite system would be relocated, and that solid boarding would be introduced with a view to baffle noise from the ventilation system. Officer 8 indicated that he intended to report to the Committee on 15 February 2006 or 15 March 2006.

33. Mr and Mrs C and Mr B wrote to Officer 8 on 21 February 2006 questioning the adequacy of the proposed measures and expressing their anger about the measure taken to accommodate the neighbour experiencing the poor television reception. They stated that their patience was exhausted and that the only way forward for them was to have no noise and odours coming from the ventilation system.

34. On 30 March 2006, Officer 8 wrote to Mr and Mrs C informing them that Officer 5 had left the employment of the Council and workload priorities had had on his departure to be re-assessed. This had resulted in a delay in reporting the matter to the Committee.

35. A progress report was submitted to the Committee on 9 August 2006. The Committee were reminded that while powers of enforcement had been approved in May 2005, however, due to 'productive discussions' with the Operator and the Agent, no enforcement notice had been served. The report detailed the issues as being that the ventilation extraction system was being operated during the course of food preparation, before the authorised opening hours of 11:30, the general noise from the extraction unit and fumes from the Premises being experienced in neighbouring rear gardens.

36. The report recorded some improvement in the condition relating to opening hours after contact with the Operator. With regard to noise, the author of the report accepted that noise was still emanating from the extraction unit but not at a level which would constitute a statutory nuisance. The Council's

Development Services and the Council's Environmental Services were of the view that reasonable effort had been made by the Operator and that residual emitted noise was within acceptable levels. The Operator was prepared to erect solid board along railings on a balcony to create an additional sound barrier. A problem with fumes was highlighted and it was explained that a problem with the satellite reception of a neighbour had prevented the ventilation system operating properly. The Operator had agreed at his expense to reposition the neighbour's satellite antenna, however, it was reported that even when the additional section of flue was fitted, cooking odours might still be experienced in neighbouring properties. In consultation with the Council's Environmental Services, the Council's Development Services had taken the view that the extraction unit had been designed to prevent odours emitted entering neighbouring premises and would reasonably do so on completion. The report recommended that the Operator be given one calendar month to reposition the satellite antenna, re-erect the remaining section of extraction flue and erect the proposed solid board sound barrier, failing which an enforcement notice would be served. The Committee agreed with this recommendation.

37. Mr and Mrs C disputed that they and Mr B had intimated to Officer 8 at their meeting in January 2006 (paragraph 32) that there had been any improvement in noise or odour nuisance. They did not accept that they should be expected to experience some degree of noise and odours. In commenting on a draft of this report, they pointed out that the odours they experienced occurred when cooking occurred in preparation for opening and occasionally such cooking had been undertaken as early as 09:00.

38. On 7 September 2006, Mr and Mrs C wrote to the Council's Development Services seeking an update. Officer 8 responded on 12 September 2006 stating that he had written to the Operator and the Agent informing them of action expected from them by 12 September 2006.

39. On 21 September 2006, Mr and Mrs C and Mr B wrote to Officer 8 confirming that work to increase the height of the ventilation system had been completed by 14 September 2006. However, it appeared to them that the top of the flue appeared to be the same as when it was first built. They were unable to confirm that the satellite antenna had been repositioned. With regard to the proposed solid board sound barrier, they did not think this would make a difference and felt that, if it was to be built, it should have been built around the fan section itself. They described the noise from the extraction system as being

of the same volume as it was at the beginning and that they had to endure the constant hum, drone and whine of the fan from 11:00 to 14:00 and from 16:20 to after 23:00, seven days a week and 52 weeks a year. They informed Officer 8 (and the MSP to whom they also wrote that day) that they would give the alterations a fair trial but, if their amenity was not brought back to what they were when the Premises were a shop, they intended to complain to the Ombudsman.

40. Following a further letter from the MSP of 9 October 2006, Officer 8 replied to her on 16 November 2006 confirming that the satellite antenna had been repositioned and the approved flue system completed. The installation of solid board on the railing on both sides of the roof had not been done. Officer 8 explained that these works had been volunteered by the Operator but did not form part of the planning consent. Officer 8 said that he would endeavour to get these works completed but that failure to do so would not be a matter the Council could enforce. Officer 8 confirmed that works carried out to date were in compliance with the conditions placed on the relevant planning permission and that the Council's Development Services had no current power to intervene.

41. The MSP passed copies of Officer 8's reply to Mr and Mrs C and Mr B. They then wrote to Officer 8 on 22 December 2006. They disputed that the works carried out to date were in compliance with the conditions placed on the relevant planning consent (paragraph 5). They maintained that as the noise and odours were still present, both condition 3 and the first part of condition 5 had not been complied with by the Operator.

*(a) and (b) Conclusions*

42. Officers clearly foresaw a difficulty in granting planning consent for a restaurant/takeaway close to residential properties. Members of the Committee decided in exercise of their discretion to grant full conditional planning consent. While the conditions were intended amongst other things to allow the Council to control the hours of operation and noise and fumes emanating from the Premises, they are written in a way which implies that neighbours should not experience odours or noise from the Premises. Mr and Mrs C and Mr B interpreted conditions 3 and 5 as requiring that no noise or odours should affect them. That interpretation is understandable. It is also clear from the history of this complaint that the Council have neither been able totally to prevent noise and odours affecting neighbouring residents, nor do they appear to have tried to explain to them that this may well not be possible.

43. Having said that, the Council have tried to mitigate the effects of the Premises on neighbours. The Council sought details of the ventilation system and have discharged condition 5; the ventilation flue was relocated in July 2005, but the full and immediate benefit was lost when the relocated flue interfered with another neighbour's television reception. It was then a full year to September 2006 before the section of the flue was reconnected but without the improvement of the jet cowl suggested by Council officers in January 2006.

44. The Council's Environmental Services, unfortunately, delayed in responding to the Council's Development Services in the Spring of 2005 but in August and September 2005 took air and noise samples which failed to disclose a problem of statutory noise or air born oils and fats.

45. I believe that Mr and Mrs C's grievance originates in that the wording of Condition 3, in particular, is problematic in terms of its precision and reasonability. I, therefore, partially uphold complaint (a) because the wording of the planning condition contributed to raising expectations on the part of Mr and Mrs C (and Mr B) which the Council were unable fully to meet. While I recognise that the Council made efforts to mitigate the problems being experienced, focus and continuity were not helped by the departure from the Council's employment of several officers in the Council's Development Services and the Council's Environmental Services. This, unfortunately, resulted in the matter taking too long to resolve. I partially uphold complaint (b).

*(a) and (b) Recommendations*

46. The Ombudsman recommends firstly, that the Council review the wording of conditions used in their planning consents with particular reference to the appropriateness of using a condition such as condition 3 with the present wording. Secondly that they actively continue to monitor compliance with the planning consent granted on 30 June 2003.

**(c) The Council have taken an unacceptable length of time to deal with Mr and Mrs C's complaints and did not keep them properly updated**

47. Mr and Mrs C and Mr B submitted a complaint form with related correspondence to the Council's Contact Centre on 23 February 2007. The Council have confirmed that the complaint form was received and logged by the Council's Contact Centre on 27 February 2007 and was forwarded to the Council's Development Services to investigate and respond. A note on the

referral sheet records that a reply from the Council's Development Services was sent to the Council's Contact Centre on 28 February 2007 that the complaint should be re-allocated to the Council's Environmental Services. Mr and Mrs C did not receive an acknowledgement of their complaint form of 23 February 2007 or a written response.

48. Mr and Mrs C and Mr B then wrote on 22 April 2007 to the Council's Chief Executive indicating that, due to the lack of response, they wished the Council's Chief Executive to regard their letter as an appeal. They detailed at length the history of matters and complained that the Council had failed to enforce condition 3 and the first part of condition 5 of the 30 June 2003 planning consent. They maintained that over the period since March 2004 when they commenced complaining, the noise and odour nuisance they experienced had not been solved or improved in the slightest. The only difference was that the ventilation system had been moved from one side of the balcony of the Premises to the other, a matter of a few yards.

49. This letter was date-stamped as having been received by the Council's Chief Executive on 25 April 2007. He replied on 22 June 2007. He commenced his letter with an apology for the delay and stated:

'Having investigated this matter, I can confirm that consent was given for a restaurant/takeaway on 30 June 2003, by [the Committee], and this was against officer recommendation. The consent contained a number of conditions. The consent was implemented by the applicant who, regrettably did so without complying with all the conditions. As a result of this, enforcement action was progressed by Development Services.

[The Operator] eventually carried out the works required by the enforcement action. A report was presented to [the Committee] on 9 August 2006, which outlined the issues surrounding the enforcement action. Following the report to [the Committee] the required works were carried out, with the exception of the installation of boarding on the railings on both sides of the roof. However, this element was not required by condition but offered by [the Operator] who then failed to carry out this work. Unfortunately, therefore, Development Services have no powers to insist on these offered works as [the Operator] ... has complied with the position set out in the report to [the Committee] on 9 August 2006. I must, therefore, conclude that there is no further enforcement action that can be taken by Development Services.'

50. The Council's Chief Executive informed Mr and Mrs C that if they were unhappy with his response they could refer their complaint to the Ombudsman. They then wrote to the Ombudsman on 6 July 2007.

*(c) Conclusion*

51. I consider that the Council generally responded to correspondence from Mr and Mrs C and their neighbour Mr B, and from the MSP. Mr and Mrs C have, however, valid grounds for complaint in specific delays in April and May 2004 (paragraph 11) and more recently (paragraph 47) in the way their complaints were handled. I also consider it unfortunate that the Council's Chief Executive's response of 22 June 2007 (paragraph 49) was delayed and failed to comment on the service delivery by the two Council services involved. I uphold the complaint.

*(c) Recommendation*

52. The Ombudsman recommends that an apology be tendered for the failings in the Council's handling of Mr and Mrs C's complaints.

53. The Council have accepted the recommendations and will act on them accordingly. The Ombudsman asks that the Council notify her when the recommendations have been implemented.

**Explanation of abbreviations used**

|                 |   |
|-----------------|---|
| Mr and Mrs C    | The complainants  |
| The Council     | Fife Council  |
| The Premises    | Former shop adjacent to Mr and Mrs C's home which was the subject of applications for planning consent for change of use to restaurant/takeaway |
| The Committee   | Council's West Area Development Committee   |
| The Application | Second application for change of use  |
| Officer 1       | Council's Environmental Health Officer  |
| Officer 2       | Council's Planning Case Officer   |
| Officer 3       | Council's Planning Enforcement Officer  |
| Officer 4       | Council's Planning Team Leader  |
| The Agent       | Operator's agent  |
| The Operator    | Operator of the Premises  |
| Officer 5       | Second Council Planning Enforcement Officer   |
| The MSP         | Local Member of the Scottish Parliament   |
| Officer 6       | Council's Planning Services Manager   |

|           |   |
|-----------|---|
| Mr B      | Mr and Mrs C's neighbour whose property adjoins the Premises                      |
| Officer 7 | Council's Environmental Services Team Leader                                      |
| Officer 8 | Council's Lead Officer (Specialist Support and Enforcement), Development Services |