

[REDACTED]
Senior Investigation Officer
Environmental Standards Scotland
Ìrean Àrainneachdail na h-Alba

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[REDACTED]
On behalf of [REDACTED]
By e-mail: [REDACTED]

19 June 2023

Subject: Response to Representation Received - National Planning Framework 4 (NPF4) – Case Reference IESS.23.006

Dear [REDACTED],

Thank you for submitting your representation to Environmental Standards Scotland (ESS) dated 18 May 2023 raising concerns that the Planning and Environmental Appeals Division (DPEA) have not applied the newly adopted National Planning Framework 4 (NPF4) policies correctly during the determination of a planning appeal for a housing development on the outskirts of Paisley.

I can confirm that I have carefully considered the points you have made in your representation, which I have understood as follows:

- SPGS concerns relate predominantly to the DPEA's decision making processes in planning appeal case (PPA-350-2038).
- You have told us that the newly adopted NPF4 has not been followed correctly by the reporter; specifically, that the removal of ancient and veteran trees located on the development site is non-compliant with policy 6 (forestry, woodland and trees).
- SPGS also raise concerns regarding the impacts of this development on biodiversity species (some listed as conservation needed) and wetland areas.
- The outcome sought by SPGS is for the DPEA to reconsider the appeal case taking into account the provisions of NPF4, to ensure the protection of the ancient and veteran trees, listed conservation biodiversity elements, and wetland areas and to reduce the scale of the development so the land is developed sustainably or not at all.
- SPGS have previously outlined these concerns through formal objections submissions to Renfrewshire Council and the DPEA during the planning consenting and appeal process. SPGS are disappointed with the outcome of the appeal however no contact has been made with DPEA since this appeal decision was approved on 30th March 2023.

I would like to offer the following response to the points noted. Firstly, with regards to SPGS' desired outcome, this is not something that ESS has the powers to action as the overturning of individual regulatory decisions falls out with the remit of ESS. Sections 27 and 32 of our governing legislation¹ specifically restricts ESS in respect of these matters. What this means is that ESS is not an appeal or complaints body for individual decisions taken by public authorities in the exercise of their regulatory functions in relation to a particular person or case (for example, a decision on a planning appeal or a decision on regulatory enforcement in a specific case). This is to prevent overlap with other existing appeal and complaint bodies which are responsible for dealing with concerns relating to individual cases.

An alternate remedy that is open to SPGS to pursue in this regard is the Scottish Public Services Ombudsman (SPSO). Unlike ESS, the SPSO can review individual cases and decisions made by public authorities and consider complaints of maladministration. Maladministration is not defined in legislation, but case law confirms that it can cover things like failure to follow relevant law, policy, procedure, or guidance ([What does maladministration mean? | SPSO](#)). Given the nature of your concerns over how the individual planning application has been handled, it is open to you to contact the SPSO. Examples of the types of cases considered by the Scottish Public Services Ombudsman (SPSO) concerning the DPEA's decisions can be found at: [Decision Reports | SPSO](#). Further information on how to make a complaint to the SPSO can be found at: [Making a complaint | SPSO](#).

In summary, for the following reasons no further action will be taken by ESS in respect of your representation:

- ESS has no power to overturn the decision in this individual planning appeal case;
- There is no evidence of any systemic issues within your representation;
- An alternative oversight body exists to consider your concerns about the DPEA's decision making process.

I appreciate you may find this response disappointing however I can confirm that the information you have provided will be used to assist ESS in its wider monitoring function.

In the meantime, should you have any queries regarding any of the above please do not hesitate to contact me.

Yours sincerely,



Senior Investigations Officer

¹ [UK Withdrawal from the European Union \(Continuity\) \(Scotland\) Act 2021 \(legislation.gov.uk\)](#)