

SPSO decision report

Case: 201104019, The Highland Council
Sector: local government
Subject: policy/administration
Outcome: not upheld, no recommendations

Summary

Mr C owns a holiday home, and there are two other holiday homes close by. The drainage systems for these premises empty into a Buchan trap (a device in a domestic sewer pipe to prevent vermin entering the pipe) inside Mr C's garden. If this becomes blocked, sewage floods into Mr C's garden. This happened in February 2007 and July 2011. Mr C complained that when the other properties were renovated, the council issued a building warrant (the legal permission to commence building work) failing to take into account his concerns about the drainage system. He also said that when he reported incidents to the council, they did not take action. He believed the drainage system should never have been approved and in view of his problems, the council should require his neighbour to change their system.

We did not uphold Mr C's complaints. The council confirmed that when the neighbouring houses were renovated they assessed and tested the drainage systems as part of the building warrant process, and found them to be satisfactory. They were, therefore, obliged to grant the warrant. The problem with the drains appeared to be not their design, but misuse by tenants of the holiday homes, which caused blockages. The council had also said they would look into any incidents that Mr C brought to their attention, and we found evidence that they did this. However, their records showed that most recently Mr C had said that he preferred to resolve matters amicably with his neighbour. Taking this into account, the council agreed not to take any action, and Mr C had not contacted them since.

Finally, Mr C said he thought the council should have made his neighbour change the drains. We found evidence that the neighbour had said they would do so if there were problems, and that their solicitor had also offered this but Mr C and his wife had refused access. In the circumstances, the council took the view that as no nuisance had been established, it was not for them to contact the neighbour on his behalf. We considered this appropriate.