

SPSO decision report

Case: 201201693, Dumfries and Galloway Council
Sector: local government
Subject: complaints handling
Outcome: not upheld, recommendations

Summary

Mr C raised his concern about the planning situation at a neighbouring site. Planning permission had been granted in 2000 for a new workshop there, but during its construction his neighbour had continued to work out of a wooden shed. Mr C was concerned that the council had failed to take effective enforcement action in relation to industrial processes being carried out in the shed, which continued after the new workshop was completed.

After taking independent advice from one of our planning advisers we did not uphold Mr C's complaint. We found that the council had investigated his concerns and had decided not to take enforcement action. Following completion of the new workshop Mr C's neighbour voluntarily decided to submit a retrospective planning application in relation to the wooden shed. Permission was refused because it would have an adverse impact upon residential amenity. We recognised that Mr C had reasonably expected the council to take enforcement action following the refusal of this application. However, they could not do so as the shed had by that time been in continuous use for more than ten years and so was exempt from enforcement action. We also found that the council had investigated complaints about noise from the shed, but had decided to take no action as they had been unable to establish that it was a statutory noise nuisance.

Although we did not uphold the complaint, we were concerned that because the council had not applied a time limit condition to the original planning consent, it took over ten years for the workshop to be completed, and was then too late for enforcement action about the shed. Because of this we made recommendations.

Recommendations

We recommended that the council:

- take steps to ensure that, where applicable and appropriate, time limits for the commencement and completion of development are considered in the application of planning conditions to ensure effective planning control in cases of possible ongoing neighbourhood disturbance; and
- if any further complaints of noise nuisance at the site are received the council ensure appropriate noise monitoring is carried out.