

SPSO decision report

Case: 201203211, Aberdeenshire Council
Sector: local government
Subject: unauthorised developments: calls for enforcement action/stop and discontinuation notices
Outcome: some upheld, recommendations

Summary

Mr C owns a house in the grounds of a former hospital. In considering an application for outline planning consent for the estate in 2000, the council considered that a design brief should be prepared for subsequent development, and this was later approved by the relevant committee. The council also decided to suspend permitted development rights in respect of proposals within the curtilage of dwellings (the land immediately around the houses).

Mr C was unhappy with the council's handling of subsequent applications and that they did not take enforcement action when wire fencing was erected in an area of amenity woodland immediately behind his home. He complained that the council had unreasonably delayed in dealing with planning issues since he first complained about the erection of fencing by a neighbour; inconsistently applied planning conditions and regulations to planning applications for urban fencing in a rural location: provided conflicting information about erecting fences within the woodland area; and failed to act in dealing with unauthorised fences there despite a prior commitment to take enforcement action. He also said that the council's planning service wilfully neglected to act on the findings of a recent relevant report by the Directorate of Planning and Environmental Appeals and had made selective use in support of their failure to take action about unauthorised development.

Our investigation upheld the first, second and fourth elements of Mr C's complaint as we found evidence of delay, inconsistency and a lack of thoroughness in considering some of these issues. We did not uphold the other complaints as we did not find evidence to support Mr C's view on these.

Recommendations

We recommended that the council:

- urgently review the terms of the original planning permissions for the estate with specific reference to all planning documents and their related planning conditions and agreements which deal with design, landscaping and woodland management; this review to include all consents, agreements and approvals issued under relevant conditions and the current status of any planning or management agreements, and to form a briefing for development management staff responsible for applications and enforcement in the area and for residents;
- reconsider their position following this exercise, with regard to the material planning background accompanying reports on applications; and
- urgently review their guidance for the preparation of officer reports on planning applications, to ensure that material considerations taken into account always include the terms of briefs, planning conditions and other forms of approved guidelines that apply to a site under any pre-existing consent or agreement.