

SPSO decision report

Case: 201301570, Aberdeenshire Council
Sector: local government
Subject: unauthorised developments: calls for enforcement action/stop and discontinuation notices
Outcome: not upheld, no recommendations

Summary

Mr C complained that the council failed to take enforcement action over a number of breaches of planning conditions on a local site. Work on the site had stopped with only one of the planned houses completed. Mr C complained that the breaches of planning conditions had left the site unsafe, and that failing to enforce these conditions would set a precedent that allowed developers to ignore them without fear of enforcement.

We took independent advice on this from our planning adviser. He confirmed that the council were correct when they told Mr C that they were entitled to exercise their discretion in deciding whether it was an appropriate use of resources to pursue a breach of planning conditions. The council also had to consider whether enforcement was in the public interest, and had to take into account government advice that developers struggling to complete works due to financial pressures should not be placed under an additional burden by enforcement action for technical breaches of planning conditions.

Our investigation found that although the council had mistakenly said that one condition had been met fully when it had not, they had now taken enforcement action against the developer on this. The council were using their discretionary powers when considering whether or not to take enforcement action and had acted in accordance with Scottish Government guidance on planning enforcement. It was clear that there was no maladministration or service failure by the council and we did not uphold the complaint.