

SPSO decision report

Case: 201304375, The Highland Council
Sector: local government
Subject: policy/administration
Outcome: not upheld, no recommendations

Summary

Mr C had carried out some work in an area of amenity ground immediately behind his house. The council took the view that this gave the ground the appearance of a garden and an extension of his own land. They said that this was contrary to the terms of the planning consent for the housing development where he lived. He was required to return the land to its previous condition. Mr C complained to us and said that other residents had done similar works to the land behind their gardens but that action had not been taken against them. He believed that the council were not applying planning rules fairly.

We took independent advice from our planning adviser. Our investigation showed that the ground concerned was amenity space to which members of the public required access. Mr C had done some works there which, after they were brought to their attention, the council inspected. They said that the work gave the impression of a private garden and so discouraged members of the public from accessing it, and that although other residents had placed picnic tables in the area, these did not affect public enjoyment or access. This was the professional opinion of council officers and as such the council were entitled to be guided by it. There was no evidence that Mr C was not treated fairly because the circumstances relating to the ground in this particular case were different.