

SPSO decision report

Case: 201400128, The Highland Council
Sector: local government
Subject: unauthorised developments: enforcement action/stop and discontinuation notices
Outcome: not upheld, no recommendations

Summary

Mr C complained about development at a caravan park near his home. He complained that two lodges at the site did not meet the criteria to be treated as caravans and felt that these should have required planning permission. Mr C said that the council had failed to allow the planning system to run its course and had been negligent in not requiring a planning application for the earthworks for the lodges (they were located on a steep hillside). Mr C complained that the local plan for the area had not been taken into account and that the council had unreasonably included provision for 14 new stances at the site when granting a new site licence for the caravan park.

After taking independent advice from one of our planning advisers, we did not uphold Mr C's complaints. We found that the council had determined that the lodges did not meet the definition of a caravan but that the decision on whether to take action was a discretionary matter. The council took the view that no planning purpose would be served by taking enforcement action and we received advice that this was a reasonable decision taken following due consideration. Similarly, we found that the council's decision to accept the earthworks at the site as permitted development to be reasonable. We received advice that as this was a decision that the council was entitled to make which they duly considered, it could only be challenged by judicial review. We found that there was nothing to suggest that the local plan had not been taken into consideration. Finally, we were advised that the inclusion of 14 new stances in the site licence fell within the planning scope established by a certificate of lawful use or development issued by the Scottish Government.