

## SPSO decision report

**Case:** 201400298, The Highland Council  
**Sector:** local government  
**Subject:** handling of application (complaints by opponents)  
**Outcome:** not upheld, no recommendations

### Summary

Mr C's neighbour constructed an extension to their house, which encroached on Mr C's land. Mr C alerted the council to this, and planning enforcement had visited the site. The council took the view that enforcement action would be inappropriate, and then accepted an amendment to the building warrant originally issued for the extension. As the extension as built complied with the amended warrant, the council granted a certificate of completion. Mr C objected to this on the grounds that it allowed a building which did not comply with the original plans to be constructed and then approved retrospectively, regardless of whether it had been built on land belonging to someone else. Mr C complained that the council's response was inadequate, and that it would have been appropriate for them to have taken more direct enforcement action. Although the council did not take enforcement action, they did place the property on the register of planning enforcement, which is a record of breaches of planning control.

Our planning adviser said that the council had acted in accordance with recognised planning custom and practice. He said that enforcement was a discretionary power, and that the council was entitled to take a view on whether the breach of planning conditions was so great that they should require the extension to be pulled down. The adviser also noted that keeping the property on the register of planning enforcement would have consequences for the property owners should they wish to sell their property. He did not consider that the council could be accused of taking no action in this case. He also said that the submission of amended documentation to regularise the planning situation was appropriate and that the council would not have been entitled to refuse these amendments or accept the subsequent completion certificate.

We found that the council had acted reasonably and appropriately.