

SPSO decision report

Case: 201407178, Aberdeenshire Council
Sector: local government
Subject: handling of application (complaints by opponents)
Outcome: not upheld, no recommendations

Summary

Mr C complained on behalf of Mr A about the development of a property near to Mr A's house. During the building works, the council was alerted to the possibility that the property was not being built in accordance with the planning permission. It was later established that the property was not built in accordance with the planning permission, and the council issued a section 33A notice (a form of enforcement action which requires a new planning application to be submitted for consideration).

Mr C complained that the council had not taken action during construction when they were first made aware of the breach. Mr C also complained that the council had then not taken reasonable enforcement action once the breach was established.

We took independent advice from one of our planning advisers. They concluded that it was reasonable of the council not to take any action during construction until they had established whether or not a breach had occurred. The adviser was also satisfied that the council had the discretion to choose whether to take enforcement action (which they did) and what form that it should take. Although the council did not intend to take any further enforcement action, this was a discretionary decision for the council to make. For these reasons, we did not uphold Mr C's complaints.