

## SPSO decision report

**Case:** 201600254, Aberdeenshire Council  
**Sector:** local government  
**Subject:** unauthorised developments: enforcement action/stop and discontinuation notices  
**Outcome:** upheld, recommendations

### Summary

Mrs C lived adjacent to a site on which unauthorised development had taken place. Mrs C was unhappy that the development had caused her property to flood and complained to the council that they had failed to take appropriate enforcement action to address the flooding.

We found that the council had served three enforcement notices on the developer in relation to the site, and that each of these had been appealed. We also noted that the developer had submitted a further planning application to the council, which meant that all enforcement action was on hold pending the outcome of this application.

In response to our enquiries, the council advised that they considered they had taken appropriate steps to take enforcement action against the developer. We took independent planning advice. The adviser considered that the council had taken reasonable steps in the first instance to ensure that the enforcement notices were served on the correct parties. However, the adviser was critical with the approach taken by the council in relation to the enforcement notices and did not consider that this approach would have been able to achieve the council's aim of preventing flooding to Mrs C's property.

While the adviser was critical of this aspect of the council's actions, we did not consider that this failing had altered the outcome of the case. This was because it was evident that the developer submitted a new planning application, which meant that all enforcement action would have been on hold anyway. However, we found that, in the event that the developer's latest application is refused, the council should reconsider enforcement action with the benefit of hindsight over the detail required in preparing the enforcement notices. We made a recommendation in relation to this and decided on balance to uphold Mrs C's complaint.

### Recommendations

We recommended that the council:

- feed back the adviser's comments to staff in the planning service.