

SPSO decision report

Case: 201607325, West Dunbartonshire Council
Sector: local government
Subject: unauthorised developments: enforcement action/stop and discontinuation notices
Decision: some upheld, recommendations

Summary

Mr C complained that the council unreasonably failed to enforce planning conditions associated with a retrospective planning permission for an area of hard standing at a neighbouring property. The permission granted for this area limited the use of the hard standing to uses associated with the small holding to which it was attached and prevented the use of the area for commercial purposes.

Mr C was unhappy that the area was being used for the parking of vehicles and the storage of items associated with a commercial business operated by his neighbour. He was also concerned that the council failed to take steps to have an unauthorised transport container removed from the site. In addition, he was unhappy with the time taken by the council to respond to his reports of unauthorised development.

We found that Mr C was correct in his interpretation of the planning conditions, but noted that the breaches which were taking place were of a temporary nature, because they related to an additional temporary planning consent. The council had taken into account the use of the area by commercial vehicles and were taking steps to address this by assisting the neighbour to obtain a new site for his office and equipment storage. We also noted that the council had been advised that the container would be removed from the site. In these circumstances we were satisfied that the council's decision not to take formal enforcement action was reasonable and we did not uphold this aspect of the complaint. We were, however, critical of the council's delay in responding to Mr C's reports of breaches in planning control. We upheld this aspect of the complaint.

Recommendations

What we asked the organisation to do in this case:

- Review the evidence they have of the container to ensure that, if it is unauthorised, they are able to take enforcement action to have it removed, should they consider this to be an appropriate course of action.
- Apologise to Mr C for their delay in investigating his reports of breaches in planning control.

What we said should change to put things right in future:

- Staff should investigate reported breaches of planning control promptly, and in line with their obligations, as detailed in the enforcement charter.

We have asked the organisation to provide us with evidence that they have implemented the recommendations we have made on this case by the deadline we set.