

SPSO decision report

Case: 201700292, Scottish Borders Council
Sector: local government
Subject: construction by developers/adoption of roads
Decision: resolved, no recommendations

Summary

Mr C complained about the council's handling of roads consent on the housing estate he lived in. He told us that the roads were still not fully complete, despite the three year roads consent period having expired a number of years ago.

Under roads consent legislation, roads authorities (in this case the council) are supposed to secure a bond or deposit from any developer seeking to construct a road when issuing consent. The developer then has a three year period to complete the road before the consent expires. Come the expiry date, councils are either supposed to formally extend the consent or, if the consent expires, use the security bond or deposit to complete the works.

In response to our enquiries, the council confirmed that the works in question were now complete, but accepted a number of failings in this case. They explained that they had not ensured that security bonds or deposits were received for all the roads in the estate before issuing consent. While they took steps to pursue the developer for the missing bonds, by the time they sought to take formal action in this respect, some houses were completed and occupied. This meant that they were unable to close or divert the roads, which would be their normal recourse in this situation. They also failed to ensure that the consent was formally extended. Normally this would have meant that they would be responsible for completing the works. However, this was complicated by the failure to secure the necessary bonds or deposits and also by a planning condition, which specified that the permanent road surface was not to be completed until all building works were complete. This only took place within the last few months, at which point the council took steps to ensure the roads were completed as soon as practicable.

The council explained that they had implemented a number of procedural changes to ensure that similar mistakes were not repeated in future. This included:

ensuring that security bonds are received from developers before house building commences

ensuring that roads are stopped up before occupation if necessary

implementing regular expiration date checks to ensure consent does not lapse unnecessarily.

We were satisfied that this represented a reasonable resolution to Mr C's complaint and he agreed. We did not take our investigation any further.