

SPSO decision report



Case: 201705932, Argyll and Bute Council
Sector: local government
Subject: unauthorised developments: enforcement action/stop and discontinuation notices
Decision: upheld, recommendations

Summary

Mr C complained that the council failed to address concerns he raised about building works carried out by his neighbour. Mr C felt that the council's failure to take action against his neighbour had allowed the retention of a defective building which had, over time, resulted in water damage to his property.

The council required Mr C's neighbour to submit a retrospective planning application to allow for the works which had been carried out to be assessed. The retrospective planning application was granted planning permission with two conditions, one of which related to the provision of appropriate guttering and rainwater goods to ensure rainwater did not discharge onto Mr C's property. Compliance with this condition was required within three months, however, Mr C's neighbour failed to comply with this condition in this time and a planning enforcement case was opened. The council carried out further investigations and closed their enforcement case. A number of years later, the council wrote to Mr C notifying him that his building was considered to be defective and requiring him to carry out works to remedy these defects. Mr C complained that these works were required because of the council's failure to enforce appropriate installation of rainwater goods on his neighbour's development, as required by the condition of the earlier planning permission.

We found that the council unreasonably closed the enforcement case without ensuring that Mr C's neighbour had carried out the works required to comply with the planning condition. We considered that the delay between Mr C initially raising his concerns about non-compliance and the council finally ensuring compliance years later was unreasonable. Therefore, we upheld Mr C's complaint.

Recommendations

What we asked the organisation to do in this case:

- Apologise to Mr C for failing to take timely and effective action to ensure compliance with condition two of the planning application. The apology should meet the standards set out in the SPSO guidelines on apology available at www.spsso.org.uk/leaflets-and-guidance.

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

- The council must ensure that when it becomes clear an applicant has failed to comply with a planning condition within the required time-frame, they take the necessary steps, including formal enforcement action if necessary, to ensure the requirements of the condition are met. They should ensure this action is taken in a timely manner, in line with the guidance detailed in Planning Circular 10/2009.