

## SPSO decision report

**Case:** 201807397, North Ayrshire Council  
**Sector:** Local Government  
**Subject:** unauthorised developments: enforcement action/stop and discontinuation notices  
**Decision:** not upheld, no recommendations

### Summary

C complained that the council, as planning authority, failed to provide reasonable justification to discharge two conditions relating to an approved planning application of a development of a historic site. C considered that the council discharged the conditions without the applicant providing solid evidence of compliance.

The first condition related to the pre-commencement condition for scheduled monument consent (SMC) (part one) and that the extension could not be used until the restoration of the site had been completed (part two). The council advised, initially, the discharge of part one of the condition was based on the SMC for the first stage of site works. Later the council justified the discharge of part one of the condition as it duplicated the effect of another organisation and therefore should not have been imposed as a pre-commencement condition.

We took independent planning advice. We found that while the council's communication in relation to the discharge of the first condition could have been clearer and more consistent, their ultimate rationale was reasonable. Therefore we did not uphold this aspect of the complaint.

The second pre-commencement condition related to the requirement for a full survey of the historic site and grounds to establish whether they were being used by roosting or hibernating bats and any further actions to minimise the disturbance of same if found. We found that the council had already acknowledged that the survey works should have been requested prior to the determination of the planning application rather than as a pre-commencement condition. As the condition had been made, the council considered the information provided by the applicant, including a bat survey report. On receipt of the report from that survey the council contacted Scottish Natural Heritage (SNH) to gain their views. SNH confirmed their acceptance of the report. On the basis of the response from SNH, the condition was discharged. We found that the council provided reasonable justification for the discharge of the condition. Therefore, we did not uphold this aspect of the complaint.