

SPSO decision report



Case: 201808327, Stirling Council
Sector: Local Government
Subject: unauthorised developments: enforcement action/stop and discontinuation notices
Decision: some upheld, recommendations

Summary

Mr and Mrs C complained that the council failed to act appropriately, impartially or in line with their obligations when carrying out enforcement action against them.

We took independent advice from a planning adviser. We found that the council took appropriate action at specific points in the course of the enforcement process and had acted impartially. However, we found that the enforcement process took an unreasonable length of time to reach a conclusion and that the council could have carried out a more thorough assessment of the situation at an earlier stage. Therefore, we upheld this complaint.

Mr and Mrs C also complained that the council had handled information provided by a third party inappropriately and placed an unreasonable amount of weight on it. We concluded that the evidence did not support Mr and Mrs C's view that the council considered information provided by a third party in an inappropriate or unreasonable manner. Therefore, we did not uphold this complaint.

Finally, Mr and Mrs C complained that the council had failed to provide a reasonable level of communication with them during the enforcement process. This includes failing to meet with them despite their requests. We found evidence of good communication at certain points during the enforcement process. However, there was also clear evidence of several of Mr and Mrs C's requests to meet not being acknowledged or followed up by the council. This directly contradicted the council's position that there had been no requests to meet made by Mr and Mrs C or their agent. Therefore, we upheld this complaint.

Recommendations

What we asked the organisation to do in this case:

- Apologise to Mr and Mrs C for the failings that contributed to delays during the planning enforcement process and for not providing a reasonable level of communication at certain points, including failing to meet with Mr and Mrs C despite their requests. The apology should meet the standards set out in the SPSO guidelines on apology available at www.spsso.org.uk/information-leaflets.
- Mr and Mrs C have requested that the council reimburse them for the Planning Consultant fees incurred in respect of the period after they consider the enforcement notice to have been complied with. They have advised of the price and they can provide a copy of the invoice. The council should consider whether it is reasonable and appropriate to reimburse Mr and Mrs C for these costs. This is a decision for the council to make and they should advise Mr and Mrs C of the outcome.

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

- Enforcement action should be carried out in an efficient and timely manner, allowing for individual circumstances on a case-by-case basis. Accurate assessments of the situation should be carried out at an early stage, allowing for individual circumstances on a case-by-case basis.

- Correspondence relating to planning enforcement matters should be responded to within a reasonable timescale. If a meeting is requested, this should either be arranged or an explanation provided for why one is not necessary or appropriate.

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.