

SPSO decision report

Case: 201900074, Scottish Borders Council
Sector: Local Government
Subject: policy / administration
Decision: not upheld, no recommendations

Summary

Mr C was the owner of a property which included a parking space noted in the title deeds. Subsequently, Mr C installed a collapsible parking pole to prevent others parking in the space. The council issued a notice to Mr C requiring that he remove the parking pole. The council advised Mr C that the road had been adopted as a 'public road', which meant control of the road rested with the council. Mr C disputed the council's position and pointed towards the council's inability to provide a complete copy of a technical drawing which accompanied a road construction consent form. He considered that this meant that the council could not demonstrate that the parking space was part of the public road.

Mr C complained about the council's decision to require him to remove the parking pole. We found that the council has discretionary power to require removal of something placed in a public road causing obstruction. Mr C had not been granted consent in writing to install a parking pole in the parking space he owned. We found no maladministration in relation to the council's decision-making in this matter. We did not uphold this complaint.

Mr C also complained about the council's investigation into a missing technical drawing. We found that a black and white copy of the drawing was available and this had evidentiary value in the council confirming which areas were originally intended to form part of the adopted road. We also found that a separate document consisted in the main record for delineating adopted areas. We were satisfied that the steps taken by the council to search for the document were reasonable. We did not uphold this complaint.