

SPSO decision report

Case: 201202587, Fife Council
Sector: local government
Subject: rights of way and public footpaths
Outcome: some upheld, recommendations

Summary

Mr and Mrs C have lived in their home for many years. It was separated from the next house by a small grassy amenity area. In 2005, a developer applied for planning permission for a housing development on a site behind the existing homes. Mr and Mrs C, along with many others, objected to this. In early 2006, the plans were amended to include footpath links from that development, with one such link running through the amenity area. The council refused the proposals in May 2006, but the developer appealed, and an inquiry reporter approved them, on condition that the developer entered into an agreement to contribute to the footpath links. As they thought at that point that there would be other developments in the area, and to reduce the risk to children walking to school, the council amended primary school catchment areas, in the anticipation that early completion of the housing site would provide part of the footpath link. A road construction consent (RCC) was obtained in 2008, but the recession in house building then prevented the developer from building the houses and providing the footpath link.

Faced with the agreed changes to the catchment areas from August 2012, the council's education service proposed that the council divert money from a local budget to provide the footpath link. After securing the necessary agreement from the landowners, in June 2012 the council hand-delivered a letter giving Mr and Mrs C about two weeks' notice of the start of construction of a council-funded footpath next to their home.

Our investigation did not uphold the first of Mr and Mrs C's complaints - that the council had failed to notify them of the footpath. We found that they had been aware of the housing development plans in 2005. There was no requirement to notify them of the RCC application, and the works undertaken by the council were similar to the planning consent issued on appeal and did not require further notification. We did uphold a second complaint, about the council's failure to respond to Mr and Mrs C's complaints.

Recommendations

We recommended that the council:

- apologise for the shortcomings in dealing with Mr and Mrs C's complaint.