

## SPSO decision report

**Case:** 201300417, South Ayrshire Council  
**Sector:** local government  
**Subject:** policy/administration  
**Outcome:** some upheld, no recommendations

### Summary

Mr and Miss C complained that a neighbour had constructed an entranceway that extended along the road verge to the entrance of a field that Mr and Miss C rent. They complained that this in effect increased the level of the verge, making it difficult to access the field with their vehicle and trailer. They also complained that the access road had resulted in a ditch being filled in and a field drain broken. Mr and Miss C felt that the council should not have allowed that part of the drive to be built and should take action to restore their access and fix the drains and ditch. They were also unhappy with the way the council dealt with their complaint.

The council's planning and roads teams reviewed the case and explained that the area in question was not part of the original planning consent. They explained that an area such as this would not require planning consent and, providing it did not cause flooding to the public road, would not be a concern for the roads department. As a result of this, the council explained that they could not take action against the neighbouring developer and that this was, essentially, a private dispute between neighbours. Mr and Miss C remained dissatisfied with this response.

We considered their concerns and reviewed the planning application details and roads legislation. We found no evidence to suggest that the council were in any way responsible for the changes to the verge. The site fell outwith the boundary area under which the planning permission was granted and, in itself, the area of tarmac concerned would not require planning permission. We also noted that the roads department would only take action where there was flooding to the public road. The council had inspected the site a number of times because of the complaint, and were satisfied that they could take no action to alter the access way. As the council were not responsible for the problems, and as they were unable to take enforcement action to alter the access to the field, we did not uphold these elements of the complaint.

However, we found that the council's initial handling of the complaint was very poor, as they failed to respond to correspondence and phone calls. In particular, the roads department failed to return numerous calls from Miss C. For this reason, and because the council allowed the correspondence to continue for almost two years, despite being clear that this was a private legal matter between neighbours, we upheld this element of the complaint. As, however, the council had already taken significant action to introduce a new computer system and complaints procedure we did not make any recommendations.