

## SPSO decision report

**Case:** 201304318, Angus Council  
**Sector:** local government  
**Subject:** unauthorised developments: calls for enforcement action/stop and discontinuation notices  
**Outcome:** upheld, recommendations

### Summary

Mrs C lived in a small residential development. The site consisted of multiple plots and various planning consents were in place for individual developments. It was served by a shared access track with planning conditions in place requiring the developer to upgrade the track surface and drainage before building work started.

Mrs C complained that development progressed at the site without the access track being upgraded. The council took a pragmatic view that it was appropriate for the final surfacing work to be done after all work on the site was completed. However, in the meantime, the track surface became badly damaged and no interim maintenance work was carried out. Initially the council had worked with the main developer to ensure the track was maintained, but the developer sold on a number of their plots and no longer considered themselves liable for the access track.

We took independent advice from one of our planning advisers and found that the pragmatic view taken by the council about final completion of the track was reasonable. However, we were critical of their failure to ensure that interim maintenance work was carried out. In particular, we found that the original planning conditions were poorly worded and made no provision for interim maintenance of the track. Furthermore, we considered that the council did not fully explore who was liable for the planning conditions after the developer sold on their plots and failed to take steps to work with the responsible party to ensure access to the site was maintained.

### Recommendations

We recommended that the council:

- review their use of planning conditions in cases involving unadopted road access to multi-owner developments to ensure that a clear record is obtained as to the proposed construction, the council's approval, and the timing of the work;
- consider using conditions to ensure that satisfactory schemes of long-term maintenance of private access roads are submitted and approved by the planning authority;
- review their position as to who is responsible for discharging the outstanding conditions relating to the access track, with reference to the adviser's comments on section 145(2) of the 1997 Act; and
- having clarified who is responsible for the access track, work with the responsible party to ensure interim maintenance work is carried out on the access track.