

SPSO decision report

Case: 201305322, The Highland Council
Sector: local government
Subject: development plans - breaches/procedures and enquiries
Outcome: not upheld, no recommendations

Summary

Mrs C complained that the council failed to deal with flooding risk to her croft and an adjacent new development. She said that a developer came onto the croft without permission, and upgraded a pipe (which drained his field into their drainage system) with a larger size pipe. The developer then applied for permission for a new development, including a surface water drain using the new pipe. Mrs C objected to the application on the basis that the drain would not be able to cope with the volume of water from the development. The council's road services agreed, and the developer amended the application. The council approved the amended application, although Mrs C still thought the system would not be effective.

After the development started, the site flooded several times. Mrs C reported this to the council, who negotiated with the developer. It was agreed that the council would carry out works to reduce the upstream catchment area, and the developer would undertake further remedial works if a flooding problem remained. The council carried out their works, and the developer undertook some works to protect the new development, including taking steps to divert overland water onto Mrs C's croft, and deepening the drainage ditch on her land (without permission). However, the croft and development site flooded again a few years later. Although the council asked the developer to carry out remedial works as agreed, they refused. The council then said that they were not able to enforce the agreement with the developer, and suggested that Mrs C pay to upgrade the drainage system if she was concerned about flooding.

After taking independent advice from our planning adviser, we did not uphold Mrs C's complaints. We found that the council had dealt with the original application in line with planning requirements, and the issue of the developer working on Mrs C's land was a private matter between them. We also found that the council had acted within their powers to manage flood risk in undertaking remedial works. The adviser was concerned that the council were not clearer about their role (for example, when they negotiated an agreement with the developer, Mrs C thought she could rely on this). However, we found no evidence that the council failed to comply with policies or the relevant requirements.