

SPSO decision report

Case: 201305665, Aberdeenshire Council
Sector: local government
Subject: handling of application (complaints by opponents)
Outcome: some upheld, recommendations

Summary

A developer had demolished a farm steading and begun construction of a new building without getting planning permission. The council served stop and enforcement notices on the developer that required the building works to be stopped, the foundations of the new building to be removed and the steading reconstructed. Some years later, the developer applied for permission to construct a new building on the site and the council granted consent.

Mrs C, a neighbouring property owner, complained that the council had failed to follow through on the original enforcement notice requiring the removal of the foundations and rebuilding of the steading. She said they had unreasonably used the fact that there were existing, though unapproved, foundations as justification for granting consent on the new building. She also raised concerns about the omission of details about the enforcement notice on the planning officer's report, their failure to take into account her concerns about the local water supply, and their failure to deal adequately with her complaint.

We found that the council had acted reasonably, and within their discretion, when taking enforcement action against the developer. We did note that the enforcement notice was inappropriately worded and required works to be carried out which, if enforced, would have effectively granted consent for a new building in an area which, at that time, was against the terms of the local development plan. We noted that the local development plan had changed since then and now allowed for new development in the countryside, and that this was the reason the new application was granted. We also found that the council had taken into account Mrs C's concerns about water supply and had placed conditions on the planning consent requiring that her supply be unaffected by the new development. We did not uphold these elements of her complaint. However, we noted that it would have been good practice for the planning officer's report to have included details of the enforcement notice in the site history section, and we noted some inaccuracies and delays in the council's responses to the complaint. We upheld these elements of the complaint.

Recommendations

We recommended that the council:

- remind staff of the importance of preparing clear and enforceable notices;
- review this case to identify why the existence of the enforcement notice was not included in the planning report and whether there were any procedural reasons for this omission; and
- remind staff of the importance of accurately addressing complaints and dealing with correspondence in line with their complaints procedure.