

## SPSO decision report



**Case:** 202110015, Aberdeenshire Council  
**Sector:** Local Government  
**Subject:** Handling of application (complaints by opponents)  
**Decision:** not upheld, no recommendations

### Summary

C complained that the council had unreasonably failed to follow their own enforcement process and relevant planning guidance in response to an alleged breach of planning condition/s in respect of two sites.

In responding to the complaint, the council acknowledged that breaches at the sites had occurred and highlighted the discretionary nature of planning enforcement. As such, the council considered resolution of the breaches through informal negotiation had, in the first instance, been an appropriate approach rather than formal enforcement action.

We took independent advice from a planning adviser. We found that council's approach to securing compliance with the planning conditions was in line with their usual enforcement process and national guidance, with no evidence of undue delay or inaction on the council's part at the time of our investigation. We also found that the council's decision to engage in negotiations to remedy the planning breaches, rather than to pursue formal enforcement action, was a decision that they were entitled to take. For these reasons, we did not uphold C's complaint.

However, we did draw the council's attention to their own Enforcement Charter which sets out the principles for effective enforcement action, specifically that: negotiation to remedy a breach should be pursued provided an appropriate solution can be achieved in a timely manner. As some of the breaches had not been remedied at the time of this investigation, we suggested that the council may wish to consider setting a timescale by which formal enforcement action would be taken.