

## SPSO decision report

**Case:** 201102425, Aberdeenshire Council

**Sector:** local government

**Subject:** planning, enforcement

**Outcome:** some upheld, recommendations

### Summary

Mr C complained to the council about a business premises next door to his property. The council gave planning consent for alterations to a workshop within the premises, including a condition that placed restrictions on the operating hours of the business. Mr C said that his family life had since been unreasonably disrupted by activities at the premises and was unhappy that the council failed to enforce the condition. The council explained that the condition was attached in error as, given the nature of the permission sought in the original planning application, operating hours should not have been considered. We, therefore, upheld Mr C's complaint that the council gave consent that included an unenforceable condition, as we found the planning officer dealing with the application should not have included the condition. We did not uphold Mr C's complaint that it was inappropriate for the council not to take enforcement action in relation to the condition, as we found it would have been disproportionate and not in fact lawful for them to do so.

Mr C also complained that the council failed to take any action against the owners. He said that the owners had misled the council and the public, as the application did not say that they intended to sub-let the premises to another business. We found, however, that the owners were not required to include this information in their application. Finally, Mr C complained that the council had not taken reasonable steps to protect the amenity of neighbours to the site. Although we did not uphold this complaint, we recommended that the council now review the position at the premises.

### Recommendations

We recommended that the council:

- arrange for environmental health officers to conduct a further site visit at the

premises; and

- undertake an assessment of the activities conducted at the premises to ascertain whether or not an intensification of use has occurred.

*When it was originally published on 27 March 2013, this case was wrongly categorised as 'not upheld'. The correct category is 'some upheld'*