

SPSO decision report

Case: 201900819, South Lanarkshire Council
Sector: Local Government
Subject: Policy / administration
Decision: not upheld, no recommendations

Summary

C complained that the council, as the building control and planning authority, failed to take reasonable action to address an alleged non-compliance with building control standards legislation and an ongoing breach of a planning condition in relation to the discharge of wastewater at the development site where they resided. C's own property had been built a number of years previously. An issue arose regarding the discharge of wastewater from new houses which were being built at the development site.

We took independent advice from a building control adviser and a planning adviser. We found that the developer initially planned to connect the properties at the development site to the sewer network and that building warrants were approved based on their proposals in this respect. When it became apparent that the sewer network required upgrading works before the new houses could be connected to it, we considered that the council undertook reasonable steps to ensure that the revised plan of using a septic tank as a temporary measure was acceptable in building standards terms.

We were satisfied that the council sought comments from relevant authorities (Scottish Environment Protection Agency and Scottish Water), both of whom were satisfied with the proposed temporary solution. We were also satisfied that provisions were made in later building warrant approvals to ensure that the developer took responsibility for decommissioning the temporary system and connecting to the sewer network once the upgrading works were completed.

In relation to C's complaint that the council failed to take reasonable action in relation to an ongoing breach of a planning condition attached to the development, we were satisfied that, whilst the council had a range of enforcement powers available to them, it was a matter for their discretion as to whether or not to take formal action, to allow the breach to remain, or to take less formal action with a view to reaching a resolution. We found that the council had acted in accordance with the relevant legislation and both national and local policy, procedures, standards and guidance including the terms of its own planning enforcement charter. We also found that there were currently attempts to resolve the problem which had not yet been exhausted and the council had left open the option for formal enforcement action to be taken if required.

We did not identify evidence of any maladministration on the part of the council in their handling of these matters and, therefore, did not uphold C's complaints.