

Directorate for Planning and Environmental Appeals

## Claim for an Award of Expenses Decision Notice

T: 01324 696 400  
F: 01324 696 444  
E: [dpea@scotland.gsi.gov.uk](mailto:dpea@scotland.gsi.gov.uk)



Decision by David Russell, a Reporter appointed by the Scottish Ministers

- Appeal reference: P/PPA/270/544
- Site address: Wester Fearn Burn, Midfearn, Ardgay IV24 3DL
- Claim for an award of expenses by Charles W. Brooke against Highland Council
- Date of hearing: 2 and 3 September 2008

Date of decision: 18 November 2008

### Decision

I find that the council has not acted in an unreasonable manner resulting in liability for expenses and, in exercise of the powers delegated to me, I decline to make any award.

### Reasoning

1. Parties are normally expected to meet their own expenses in planning appeals. Awards of expenses do not follow the decision on the planning merits and are made only where each of the following tests is met:

- The claim is made at the appropriate stage in the proceedings; and,
- The party against whom the claim is made has acted unreasonably; and, if so,
- This unreasonable conduct has caused the party making the application unnecessary expense, either because it was unnecessary for the matter to come to appeal, or because of the way in which the party against whom the claim is made has conducted its case.

2. Here, the claim was made at an appropriate stage of the proceedings, prior to the close of the hearing.

3. However I do not consider that the council acted unreasonably in its refusal of the application. Although the wording of the reason given for refusal may have lacked precision, its reference to the impact of the proposed development on the neighbouring salmon hatchery business was a relevant and material planning consideration which bore on the assessment of the proposal against the specified policies of the structure plan which themselves formed part of the relevant policy framework of the development plan.



4. The planning authority was required to make its own judgement of the proposal against that policy framework. Again, I do not consider that it acted in any way unreasonably in making that judgement or in giving weight to the written and oral evidence provided by a third party when reaching its decision. It is of no consequence in regard to the claim that I, or anyone else, may have reached a different judgement on the planning merits of the proposal. The appeal against the refusal of planning permission provided the appropriate mechanism for the aggrieved applicant to seek redress.

5. I therefore conclude that the planning authority was entitled to make the decision which it reached in relation to the planning application, and I have not found that any of its actions then, or in the course of the appeal process, amounted to unreasonable behaviour. Accordingly it is not necessary for me to address the third test.

6. I have considered all the matters raised in the submissions concerning this claim, but they do not lead me to alter my conclusions.

DAVID A. RUSSELL  
Principal Inquiry Reporter

