



Claim for an Award of Expenses Decision Notice

Decision by Sinéad Lynch, a Reporter appointed by the Scottish Ministers

- Appeal reference: PPA-270-2299
- Site address: land at Drum Farm, South of Fire Station, Drumnadrochit IV63 6AH
- Claim for expenses by Springfield Properties PLC against The Highland Council
- Date of site visit by reporter: not applicable

Date of decision: 24 September 2024

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. The claim for expenses by the appellant was made at the appropriate stage of the proceedings.
2. The appellant considers the council acted unreasonably and reached its decision without reasonable planning grounds for doing so. The reason for this claim relates to the reason for refusal, which states that 'The applicant has not sufficiently demonstrated the need to amend the phasing and rate of build, despite further evidence being requested by the Planning Authority, from that set out in the original planning permission (19/02761/FUL), and subsequent decisions, and is therefore contrary to the requirements of Inner Moray Firth Development Plan 2015, site allocation DR5 Drum Farm.'
3. The appellant says that the council did not clarify what deficiency there was in the evidence submitted or articulate what was required to be submitted to address those deficiencies. In doing so, the council acted unreasonably.
4. The council submits that the committee acted reasonably and applied the statutory test as set out in section 25 of the Town and Country Planning (Scotland) Act 1997. That test is as follows: 'Decisions on planning applications are to be made in accordance with the development plan, unless there are material considerations that indicate otherwise'.
5. In this instance, the development plan is National Planning Framework 4 (NPF4), The Highland Wide Local Development Plan 2012 (HWLDP), the Inner Moray Firth Local Development Plan 2 (IMFLDP2) Intention to Adopt version March 2024 and associated Supplementary Guidance. The site reference is now DR03, at the time the decision was made, the Inner Moray Firth LDP 2015 was in place and the site reference was DR5.

6. I find that the council did give a clear and intelligible reason for refusal, in accordance with the development plan. That reason is related to then site allocation DR5 in the LDP. This site allocation requires specific phasing and delivery of the proposed elements of the development. I do not consider it unreasonable for the council to seek further information on the proposed amendments to phasing and delivery, and to then conclude that the need to amend the approved phasing and rate of delivery was not sufficiently demonstrated. I find that the council's reason for refusal is not that there was insufficient evidence, rather that the evidence as submitted did not sufficiently demonstrate a need for an amendment.

7. The council had requested additional information on this specific matter, and I am satisfied that after its consideration of that information, it was entitled to conclude that it did not demonstrate a need to amend the phasing and rate of build.

8. Consequently, I find that the council has not acted in an unreasonable manner resulting in liability for expenses.

Sinéad Lynch

Reporter