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Decision by Dannie Onn, a Reporter appointed by the Scottish Ministers

- Appeal reference: PPA-270-2159
- Site address: Land 40 metres east of Pierhead, Onich, PH33 6SD
- Claim for expenses by Mr C O'Keefe against The Highland Council

Date of decision: 14 October 2016

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## 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.

This decision relates to my determination of an appeal against refusal of planning permission under the same reference, which is subject of a separate decision notice.

## Reasoning

1. The appeal was determined using the written representations procedure accompanied by a site inspection. The appellant made this claim following the submission of the council's response to the appeal. This claim was therefore made at the appropriate stage of the proceedings.
2. The expenses regime, as spelled out in Circular 6/1990, expects participants in planning proceedings to meet their own expenses. Expenses can only be awarded where unreasonable behaviour has led to unnecessary expense. Examples are given. In this case the appellant says that the council's first reason for refusal is not complete, precise and relevant, because it retracted part of the reason. In its response to the appeal, the council said that the reason for refusal could be amended to omit reference to policy 57.
3. It is clear to me from the council's committee minute and the response to the appeal, that the council has been able to substantiate its decision on planning grounds. Accepting a point raised by the appellant relating to a policy matter does not undermine the reason for refusal. The appellant still had to address this reason in his appeal, including the impacts on the National Scenic Area. That the council concedes a point is part of the process of considering the appeal.
4. The appellant also says that the council has introduced a new reason for refusal at a late stage in the proceedings. However, the suggested re-drafting of the reason does not constitute a new reason for refusal. The essential planning arguments remain the same.



5. The appellant say that the second reason for refusal is unreasonable when Transport Scotland had approved the proposal. The council is not bound to adopt the views of a statutory consultee. Although I disagree with the council's assessment in my appeal decision, I consider that the councillors applied local knowledge and reasoned an alternative view.

6. Lastly, the appellant says that the council has not been able to support its reasons for refusal because it has not provided any underpinning or explanation of how policies 49 and 56 are relevant to the reasons for refusal. I disagree here too. The council has provided a complete explanation of why it considers that the proposal would be unacceptable and why it would fail to accord with the relevant policies of the development plan.

7. Taking all of these points together, I find that the council has not behaved unreasonably. I do not therefore need to consider whether there has been unnecessary expense.

*Dannie Onn*

Reporter