

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



Decision by R F Loughridge, a Reporter appointed by the Scottish Ministers

- Appeal reference: CLUD-270-2002
- Site address: Units 1A-8 at Phase 1 Inverness Retail Park, Eastfield Way, Inverness IV2 7GD
- Claim for expenses by The Trustees of Hercules Unit Trust plc against the Highland Council

Date of decision: 9 April 2014

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 appellant seeks the full expenses of the appeal. The claim was made at an appropriate stage of the proceedings as it was contained in the response on behalf of the appellant intimated on 31 July 2013, immediately upon the appellant's receiving a copy of the planning authority appeal response form.
2. It is the appellant's submission that the Council has acted unreasonably, in that the reasons given for the decision to which the appeal relates are not relevant, and that, in arriving at the decision in question, the Council failed to address the substance of the application and relevant legal provisions.
3. For its part, the Council maintains that it properly applied the statutory test for the determination of applications for certificates of lawful proposed use contained in s 151 of the Town and Country Planning (Scotland) Act 1997, and does not accept that in doing so it failed to address the substance of the relevant application.
4. It is clear to me from the submissions made by the parties in the course of the appeal that each reached different conclusions based on the facts, which were not in material dispute, and the relevant law. It does not follow from that, however, that one or other party must have acted unreasonably. It appears to me that, in reaching the decision appealed against, the Council applied the correct statutory test and had regard to all the relevant



matters to which it should have had regard. The Council did not act unreasonably, and I decline to make any award.

RF Loughridge
Reporter

