



Decision by Christopher Warren, a Reporter appointed by the Scottish Ministers

- Appeal reference: PPA-270-2255
- Site address: Smithy Croft, Station Road, Carrbridge PH23 3AL
- Claim for expenses by A & V Groom against The Highland Council
- Date of site visit by reporter: 10 November 2021

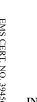
Date of decision: 7 December 2021

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 determination of a claim for an award of expenses is guided by the provisions of Circular 6/1990, which sets out the conditions which would normally need to be met for a claim to be successful. The appellant's claim was made at an appropriate stage of proceedings, satisfying the first of these conditions.
2. The second condition is that the party against whom the claim is made (in this case, the council) must be found to have acted unreasonably. The appellant's claim in this regard is that by considering the neighbouring property (Smithy Croft) as 'tourist accommodation' rather than a dwellinghouse, it based its refusal of planning permission on a matter which was not a material consideration.
3. It is evident that the council has had regard to the fact that Smithy Croft is currently used for short-term holiday letting, and it has attached weight to what it considers to be the particular amenity concerns associated with this use in this location.
4. The council's refusal of planning permission was not made on the basis of an assertion that Smithy Croft is not being used in a manner which would be consistent with its lawful use as a dwellinghouse (although I note that some concerns of this nature have subsequently been intimated by the council), but on the basis that when houses are used for short-term holiday letting this can present particular amenity concerns.
5. I do not find it to be misleading or unreasonable for the council to describe Smithy Croft as providing 'tourist accommodation', as this is exactly what a house used for short-term holiday letting provides. In my opinion, the council was entitled to consider the precise nature of the holiday use at Smithy Croft and its implications for the proposed development.



6. In my own assessment of the proposal, I have myself acknowledged that the characteristics and potential amenity concerns associated with holiday lets can differ to where a property is in full-time occupation by a single household. These are essentially opposite ends of the spectrum of how a dwellinghouse may lawfully be used, and I consider it was legitimate for the council to consider the implications of how Smithy Croft is currently being used on this spectrum, and for it to attribute whatever weight it deemed appropriate to the concerns this gave rise to.

7. The appellant has also made reference to the proposal's compliance with relevant guidance on access and parking, to rebut the council's reason for refusal where it states there would be insufficient off-street parking. It is important to note however that the guidance sets out minimum parking standards, so the council was entitled to consider whether additional car parking would be appropriate in this case, over and above the minimum standards. Again, I also find it was legitimate for the council to have regard to how the short-term letting use of Smithy Croft (with which the proposed house would share an access) may give rise to additional car parking demand than a house occupied by a single household.

8. All told, I find no evidence that the council has acted unreasonably in this case. It therefore follows that the appellant cannot have incurred any unnecessary expense as a result of unreasonable behaviour by the council, and I decline to make an award of expenses.

Christopher Warren
Reporter