

ANGUS COUNCIL

DEVELOPMENT CONTROL COMMITTEE

9 JANUARY 1997

SUBJECT: PLANNING APPEAL - AWARD OF EXPENSES
MARYKIRK ROAD, HILLSIDE, MONTROSE

REPORT BY DIRECTOR OF PLANNING, TRANSPORT & ECONOMIC DEVELOPMENT

Abstract: This report presents details of the claim for expenses lodged by agents to Stewart Milne, the successful appellants in an appeal at Marykirk Road, Hillside.

1 RECOMMENDATION

It is recommended that the Committee agrees to pay £5,049.60 (excluding VAT) to Halliday Fraser Munro Planning in payment of their successful claim for award of expenses in respect of an appeal at Marykirk Road, Hillside, at which they represented the appellants, Stewart Milne Homes.

2 INTRODUCTION

2.1 The outcome of an appeal lodged by Stewart Milne Homes against the refusal by Angus District Council of a housing development at Hillside, was reported to the Committee on 2 May 1996 (report No. 288/96).

2.2 Not only was the appeal allowed but a claim lodged by the appellant to be awarded costs was upheld by the Reporter. On the basis that three of the four reasons for refusal were deemed unreasonable, 75% of costs were awarded.

2.3 Two of the three "unacceptable" reasons for refusal related to an out-of-date Local Plan, the third, based upon local school capacity, had not been supported by the Director of Education.

3 THE CLAIM

3.1 The first claim was lodged by the agents (Halliday Fraser Munro Planning) on 10 July 1996 but contained minimal information and little breakdown. As a fairly substantial amount of money is involved, a more detailed breakdown was requested but was not received until 7 December 1996.

3.2 The revised claim, which provided a detailed breakdown of the costs, was received on 7 December. The total claim appeal expenses amounted to £6,732.97 of which the Council must meet 75%, i.e. £5,049.60 (£5,933.28 including VAT).

3.3 The advice of the Director of Law and Administration has been sought and although there are means by which the amount claimed can be challenged, such a course of action is unlikely to be rewarding to the Council.

4 FINANCIAL IMPLICATIONS

- 4.1 The appeal report (288/96) indicated that no provision was included in the department's budget for such claims but since that date the Scottish Office has intimated an intention to increase planning fees by 10% from the end of January. This should generate increased income just sufficient to cover the amounts involved.

5 CONSULTATION

- 5.1 The Chief Executive, Director of Finance and Director of Law and Administration have been consulted in the preparation of this report.

6 CONCLUSION

- 6.1 This decision highlighted the problems that can arise in the absence of up to date Local Plans. However, members will be aware that the Council's area wide Local Plan is now well advanced and should be released for public consultation in the near future.
- 6.2 Members should also be informed that awards for claims of expenses involved in appeals, on a national basis are becoming more common, invariably in favour of appellants rather than Local Authorities.

NOTE

No background papers, as defined by Section 50D of the Local Government (Scotland) Act 1973, (other than any containing confidential or exempt information) were relied on to any material extent in preparing the above Report.

AA/JJ/KW
27 December 1996

Alex Anderson
Director of Planning, Transport & Economic Development