

ARUN DISTRICT COUNCIL

REPORT TO AND DECISION OF POLICY & FINANCE COMMITTEE ON 30 JUNE 2022

SUBJECT:

Supplementary Estimate to defend planning appeals at Chandlers, Angmering (A/1101/21/PL), Rustington Golf Centre (A/129/21/PL), Worthing Road, (A/168/21/PL) and Pagham Road (P/178/21/OUT). This will also cover the costs award at Shripney Road (BE/109/19/OUT). It will also cover costs associated with further technical work that Planning Committee have requested on the Fitzalan acoustic barrier.

REPORT AUTHOR: Neil Crowther – Group Head of Planning

DATE: 1 June 2022

EXTN: 01903 737839

AREA: Place

EXECUTIVE SUMMARY:

Normally, the Council may get one appeal to be heard by way of inquiry every 1 – 2 years. There are currently four planning appeals to be heard by way of public inquiry that have all been submitted in the space of a few months. Officer time in carrying out the work necessary in defending these appeals would be significant and would result in time that would otherwise have been available for determining of planning applications not being available.

A budget is also requested to continue the technical work that has been requested by Planning Committee on the Fitzalan acoustic barrier.

RECOMMENDATIONS:

That the Policy & Finance Committee recommends to Full Council that:

(1) A Supplementary Estimate of £100,000 is agreed in order to defend decisions at appeal taken on planning applications A/110/21/PL, A/168/21/PL, A/129/21/PL & P/178/21/OUT, to cover the Costs award in respect of BE/109/19/OUT and to carry out further work required on the Fitzalan Acoustic Barrier.

The Band D equivalent for £100,000 supplementary estimate is £1.58.

1. BACKGROUND:

Appeals

- 1.1 The Planning Department has a relatively small budget to use on external consultants and other miscellaneous costs over the course of a year. Typically, this budget would be used for dealing with the occasional appeal or instructing a consultant to carry out a specific bit of work on our behalf and the budget allocated is sufficient for this purpose.
- 1.2 We are only a few months into the 22/23 financial year and it is obvious that this budget will be significantly exceeded this year due to the following appeal costs;

| Application/Site | | Likely cost |
|--|--|----------------|
| BE/109/19/OUT Shripney Rd | Appeal against decision to refuse. Application was refused contrary to the officer recommendation and the appeal allowed. The Inspector allowed a partial award of costs due not being able to provide any evidence on settlement boundary and flood risk issues. This appeal had already cost nearly £10k to defend that was from a previous Supplementary Estimate. | £20 - £30k |
| A/110/21/PL Chandlers, Angmering | Appointed consultants to present the Council's case at the appeal inquiry as well as the need to appoint legal representation. | £25k |
| A/168/21/PL Littlehampton Rd/Worthing Rd | To be heard by way of Inquiry. legal representation being appointed and a need to appoint external consultants to represent the Council due to officer time constraints. | £30k |
| A129/21/PL Rustington Golf | To be heard by way of Inquiry. There will be a need to appoint legal representation and it is likely that we will need to appoint external consultants to represent the Council due to officer time constraints. | £20k - £30k |
| P/178/21/OUT Pagham Road, Pagham | To be heard by way of Inquiry. There may be a need to appoint legal representation and it is likely that we will need to appoint external consultants to represent the Council due to officer time constraints. | £20k - £30k |

- 1.3 The above current appeals have all been refused under delegated authority but, due to day-to-day work dealing with planning applications, case officers simply do not have sufficient time to dedicate to a long and detailed appeal process and present the Council's case as well as possible.
- 1.4 The Group Head of Finance has been consulted and they have confirmed that there is no corporate underspend available at this time, so a supplementary Estimate needs to be sought to cover these costs.

Fitzalan Acoustic Barrier

- 1.5 On 25 May 2022, Planning Committee resolved to instruct further technical work in respect of the Fitzalan acoustic barrier. This will involve expert advice into the potential for future compensation claims, detailed discussions with the applicant (Persimmon Homes) and West Sussex County Council around quantifying costs associated with any revised planning application and undertaking the work and legal advice on modifying the planning permission.
- 1.6 This work will require specialist advice and will need to be managed by a suitably qualified professional. These are specialisms that the Planning Department do not have and do not have experience of. There are also significant issues around having the internal capacity to manage these elements of work. It is therefore proposed to instruct a suitably qualified person with relevant experience to manage this process and to advise the Planning Committee at future meetings.
- 1.7 A previous Supplementary Estimate for £25,000 was agreed. There remains £17,000 in this budget but this will not be sufficient to carry out all the work required and appoint a consultant to manage the process.

Summary

- 1.8 It is expected that a supplementary estimate of £100,000 would be sufficient to cover all these costs. This Supplementary Estimate is essential so that other work can progress from the Departmental budget throughout the rest of the year. Any costs over and above these would be covered by the Departments current budgets.

2. PROPOSAL(S):

That a Supplementary Estimate is agreed if these appeal decisions are to be defended at appeal and so that the work required by Planning Committee can progress.

3. OPTIONS:

The Council could choose not to agree to the Supplementary Estimate, and it would have two options in respect of appeals;

- i. Officers would defend the appeals. This would have a significant impact on the day-to-day work required in determining planning applications and consequently on performance.
- ii. Chose not to defend the appeals and offer no defence.

In respect of work on the Fitzalan Acoustic Barrier, the Council could choose to work within existing budgets and get some initial advice only and it could work with existing staff resources. This will mean that the work would have to be carried out alongside other competing priorities.

4. CONSULTATION:

| Has consultation been undertaken with: | YES | NO |
|--|-----|----|
| Relevant Town/Parish Council | | x |

| | | |
|--|------------|-----------|
| Relevant District Ward Councillors | | X |
| Other groups/persons (please specify) | | |
| 5. ARE THERE ANY IMPLICATIONS IN RELATION TO THE FOLLOWING COUNCIL POLICIES: (Explain in more detail at 6 below) | YES | NO |
| Financial | X | |
| Legal | X | |
| Human Rights/Equality Impact Assessment | | X |
| Community Safety including Section 17 of Crime & Disorder Act | | X |
| Sustainability | | X |
| Asset Management/Property/Land | | X |
| Technology | | X |
| Other (please explain) | | |
| 6. IMPLICATIONS: There are significant financial implications for the Council. This expenditure is required to defend the decisions taken by the Council and to progress the work requested by Planning Committee. | | |

7. REASON FOR THE DECISION:
Having taken the decision to refuse permission for these planning applications, the Council is duty bound to defend this decision at an appeal.

8. BACKGROUND PAPERS:
25 May 2022 Planning Committee agenda.