

ARUN DISTRICT COUNCIL

REPORT TO AND DECISION OF CABINET ON 3 June 2019

PART A : REPORT

SUBJECT: Planning Appeal at Land north of Hook Lane, Pagham.

REPORT AUTHOR: Claire Potts – Strategic Development Team Leader

DATE: 07/05/19

EXTN: 37698

PORTFOLIO AREA: Planning

EXECUTIVE SUMMARY: An appeal has been submitted against the decision of the Council to refuse planning permission for 300 dwellings, care home of up to 80 beds, D1uses (e.g. community facility) of up to 4000sqm including a 2 form entry Primary School, formation of new means of access onto Hook Lane & Pagham Road, new pedestrian & cycle links, the laying out of open space, new strategic landscaping, habitat creation, drainage features & associated ground works & infrastructure on a site to the north of Hook Lane, Pagham. (Planning Application Ref P/6/17/OUT).

The application was refused by Council's Development Control Committee on the 23 January 2019 for one reason, overturning the officers' recommendation of approval. The appeal will be heard in October 2019 and is to be heard by way of a Public Inquiry lasting four days.

This report seeks approval to a supplementary estimate of up to £25,000 to cover the costs of defending this appeal.

RECOMMENDATIONS:

That Cabinet recommend to Full Council the approval of a supplementary estimate of £25,000 for costs associated with defending the appeal in respect of application P/6/17/OUT. These include Counsel costs and costs of appointment of a Planning Consultant to assist Members with defending an appeal in respect of Planning Application P/6/17/OUT.

The supplementary estimate equates to a Band D Council Tax of £0.41.

1. BACKGROUND:

1.1 Hallam Land Management Ltd submitted to the Council an outline planning application seeking permission for 300 dwellings, care home of up to 80 beds, D1uses (e.g. community facilities) of up to 4000sqm including a 2 form entry Primary School, formation of new means of access onto Hook Lane & Pagham Road, new pedestrian & cycle links, the laying out of open space, new strategic landscaping, habitat creation,

drainage features & associated ground works & infrastructure on a site to the north of Hook Lane, Pagham. All detailed matters were reserved other than the means of access into the site. The development site covers 17.5 hectares.

1.2 The application was presented to Development Control Committee with a recommendation of approval on 23 January 2019. The application was refused by Development Control Committee. In exercise of its statutory rights under Section 78 of the Town and Country Planning Act 1990, Hallam Land Management Ltd, has appealed the decision to refuse the application. The Planning Inspectorate has decided that the appeal should be heard under the public local inquiry procedure.

1.3 The reasons for refusal related to the perceived increased vehicle movements generated by the application exacerbating existing capacity issues on the local highway network and that the mitigation measures proposed being insufficient to overcome the safety concerns resulting from the additional vehicle movements. No indication was provided about what further mitigation measures were required and the decision ran contrary to the advice of officers, the Highway Authority and an independent highways consultant instructed by the Council.

1.4 Officer advice on the robustness of this decision is contained on page 288 of the minutes of Development Control Committee on 23 January 2019.

1.5 An appeal will be heard into the proposal which is scheduled for 22 – 25 October 2019. It is likely that the appeal will last 4 days; there is a great deal of work involved in preparing the Council's case for the appeal.

1.6 As the appeal is to be heard by way of a public inquiry, the Council will be required to be legally represented by Counsel and fee estimate for this is £7,950 for representation and for the work involved in the preparation and attendance at the appeal.

1.7 The Council will also need to appoint planning consultants to provide assistance and guidance to Members defending the Council's case and to manage the appeal process. Officers have sought fee proposals from 7 planning firms, and received 1 fee proposal from DMH Stallard. The quote received is for a fixed fee of £15,000 plus VAT and disbursements based on preparatory work and a 4/5 day inquiry.

1.8 Therefore, in order for the Council to defend the decision of Development Control Committee, costs of up to £25,000 will be incurred (allowing £2,050 for additional unforeseen costs).

1.9 The appellant have indicated that they will be putting in a claim for award of costs against the Council. The Inspector will ultimately be the judge of whether the Council's actions were unreasonable. If that is his conclusion then the Council will have to potentially pay some or all of the appellant's costs at a later date. Pagham Parish Council are also formally participating in the appeal and will be putting their case to the Inspector.

10.10 The Department's miscellaneous budget is normally used to defend appeals following the refusal of planning permission. However, this budget is very limited and the appeal costs could not be accommodated through this budget in this financial year.

2. PROPOSAL(S):

To agree a supplementary estimate of £25,000 for counsel and consultants associated with defending the appeal. This does not cover the eventuality that the Council lose the appeal and the appellants cost claim against the Council is successful.

3. OPTIONS: Not providing a case in defence of the decision. This would mean that the Council would almost certainly be liable for appeal costs of the other parties at the appeal.

4. CONSULTATION:

Consultation with Ward Councillors and the Portfolio Holder will take place prior to Cabinet.

Has consultation been undertaken with:	YES	NO
Relevant Town/Parish Council		x
Relevant District Ward Councillors		x
Other groups/persons (please specify)		x
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
Safeguarding		x
Other (please explain)		x

6. IMPLICATIONS:

There are financial implications for instructing legal and planning consultants for the appeal. There are also potentially significant costs to the Council if it is found to have acted unreasonably.

7. REASON FOR THE DECISION:

For an appeal by public inquiry, legal representation is required. Planning consultant support is required to assist Members in their defence of the appeal.

DATE DECISION BECOMES EFFECTIVE: 12 June 2019

9. BACKGROUND PAPERS:

Development Control Committee agenda 23 January 2019

<https://www.arun.gov.uk/development-control-committee>

[Statements of Case and appeal documentation under application reference P/6/17/OUT](#)