

ARUN DISTRICT COUNCIL

REPORT TO CABINET

ON 11 JANUARY 2021

SUBJECT: Supplementary Estimate to cover costs awarded against the Council in appeals Y/103/18/PL and EP/148/20/PL

REPORT AUTHOR: Karl Roberts (Director of Place)
DATE: 2 December 2020
EXTN: 37760
PORTFOLIO AREA: Planning

EXECUTIVE SUMMARY:

Planning permission was refused for applications Y/103/18/PL and EP/148/20/PL. Both decisions were taken by the Development Control Committee (DCC) and were contrary to the advice of officers. In deciding the subsequent appeals, the Inspector has concluded that the Council acted unreasonably in refusing planning permission and has awarded costs against the Council.

This award follows an award of costs for BE/69/19/OUT in May 2020 (a decision also taken at DCC contrary to the officer recommendation). This award of costs (£11,400) was paid out of the Departments budget. A Supplementary Estimate is now sought to pay these further costs as the Department budget is unable to accommodate these significant additional payments.

RECOMMENDATION:

Cabinet is asked to make the following recommendation to Full Council:

- 1) To approve a supplementary estimate of a maximum of £33,000 to settle the awards of costs in respect of applications Y/103/18/PL and EP/148/20/PL. This equates to a band D equivalent Council Tax of £0.53.

1.0 BACKGROUND

- 1.1 Attached at Appendix A, B and C are three recent awards of costs against the Council. The award of cost referred to at Appendix A has already been settled from the departmental budget, but the budget is insufficient to cover items at Appendix B and C as well, hence, the need for this supplementary estimate.
- 1.2 In respect of Y/103/18/PL it is worth noting that whilst Members gave evidence on their own experiences of the highway network with the Inspector noting that *'The Council has gone to some length to provide evidence of those with local knowledge who have sought to challenge the evidence submitted by the appellant.'* He went on to add *'Local knowledge is important and should be used to shape the delivery of development. However, there has*

been very little evidence submitted to demonstrate that the technical assessments of the effect of the proposal on the highway were flawed or factually wrong.’ and ‘In circumstances where the Members of the Council reach a different decision to that of the advice of the Council’s professional officers, the Council has to clearly demonstrate on planning grounds why a proposal is unacceptable and provide clear evidence to substantiate this reasoning.’ He concluded that the Council had failed to do this.

- 1.3 In respect of EP/148/20/PL the Inspector in that case drew a similar conclusion stating: *‘Whilst the Council is not duty bound to follow the advice of its professional officers, if a different decision is reached the Council has to clearly demonstrate on planning grounds why a proposal is unacceptable and provide clear evidence to substantiate this reasoning. In this case, highway officers concluded that there would be adequate parking available on-street to accommodate the development, and they accepted the general findings of the Appellant’s parking survey and other evidence provided as part of the application. As such, the opinion of the professional officers, based on the evidence put forward, was that there would not be harm to highway safety as a result of the development.’* The Inspector went on to state:-

‘However, little evidence has been put forward to support the reason for refusal which has been determined based on local knowledge. Whilst I accept that the site is near to a local school, no technical evidence has been submitted to demonstrate that the additional level of on-street parking would be detrimental to highway safety in this regard. Accordingly, alleged harm to highway safety has not been substantiated in this instance.’

- 1.4 The learning here is that the Council should be very wary of refusing an application supported by technical evidence unless there is technical evidence to support the Council’s position.

2. PROPOSAL(S):

- 2.1 To agree a supplementary estimate of a maximum of £33,000 for the costs awarded against the Council in respect of these two appeals. The actual cost may be less as the Council seeks to interrogate the cost submissions.

3.0 OPTIONS:

1. To accept the officer recommendation; or
2. To refuse the officer recommendation

4.0 CONSULTATION:

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

5.0 ARE THERE ANY IMPLICATIONS IN RELATION TO THE FOLLOWING COUNCIL POLICIES: (Explain in more detail below)

	YES	NO
Financial	✓	
Legal		✓
Human Rights/Equality Impact Assessment		✓

Community Safety including Section 17 of Crime & Disorder Act		✓
Sustainability		✓
Asset Management/Property/Land		✓
Technology		✓
Other (please explain)		✓

6.0 IMPLICATIONS:

The total sum involved represents approximately 0.5% of the Council's share of Council Tax. The maximum the Council can raise in any year currently is 2%.

7.0 REASON FOR THE DECISION:

The Council is required to settle the award of costs.

8.0 EFFECTIVE DATE OF THE DECISION: Full Council – 17 March 2021

8.0 BACKGROUND PAPERS:

Appendix A – Appeal and Costs Decision for BE/69/19/OUT

Appendix B – Appeal and Costs Decision for Y/103/18/PL

Appendix C – Appeal and Costs Decision for EP/148/20/PL