ARUN DISTRICT COUNCIL

REPORT TO AND DECISION OF CABINET ON 17 MAY 2021

SUBJECT: Supplementary Estimate to Cover Costs Awarded Against the Council in Appeal P/58/19/PL

REPORT AUTHOR: Neil Crowther, Group Head of Planning
DATE: April 2021
EXTN: x 37839
PORTFOLIO AREA: Planning

EXECUTIVE SUMMARY:

Planning permission was refused for application P/58/19/PL. The decision was taken by the Development Control Committee (DCC) and was contrary to the advice of Officers from Arun District Council, West Sussex County Council (as Highway Authority) and the Council's appointed Highways Consultant. In deciding the subsequent appeal, 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, Y/103/18/PL & EP/148/20/PL; all of which were refused planning permission contrary to the advice of Officers. Costs of £11,400 were paid from the Department budget for BE/69/19/OUT and a Supplementary Estimate of £33,000 was agreed at Cabinet on 11 January 2021 for Y/103/18/PL & EP/148/20/PL.

A further Supplementary Estimate is now sought to pay these further costs as the Department budget is unable to accommodate these significant additional payments.

RECOMMENDATIONS:

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

To approve a supplementary estimate of a maximum of £26,000 to settle the awards of costs in respect of applications P/58/19/PL. Council tax band equivalent is £0.42 for £26k supp est.

1. BACKGROUND:

1.1 This report follows previous reports to Cabinet in July 2020 and January 2021. The July 2020 report sought agreement for a supplementary Estimate of £40,000 so that the Council could employ consultants to defend three appeals against decisions made contrary to the advice of officers (including P/58/19/PL). The January 2021 report sought a further Supplementary Estimate of £33,000 to cover the costs awarded against the Council in two appeals where decisions were made at Development Control Committee contrary to the advice of officers. The award of costs was a as a result of unreasonable behaviour in refusing planning permission. This report seeks another Supplementary Estimate of up to £26,000 to cover the costs awarded against the Council in another appeal where decisions were made at Development Control Committee contrary to the advice of officers. The award of costs was as a result of unreasonable behaviour in refusing planning permission.

1.2 Officers are still in discussion with the appellant around agreement on what the reasonable costs associated with the reasons for refusal were.

1.3 The report in July 2020 sought costs required to defend the appeals and made it clear that any award of costs for unreasonable behaviour in these appeals would be subject to further Supplementary Estimates.

1.4 In the case of this appeal, it was going to be difficult to defend a decision reached contrary to the advice of the technical expert in the way of the County Council as Highway Authority. This was made harder due to the fact that the Committee had sought an independent review of the proposals by an instructed consultant. This consultant supported the views of the County Council but the Committee did not accept this second view and refused the application.

1.5 The Inspector concluded that

- the access currently operates without any safety concerns,
- cars parked in a nearby layby does not create significant problems,
- volume of traffic using the access would be low,
- conflict between pedestrians and cars would be infrequent, and
- there would be no unacceptable impact on highway safety.

1.6 In awarding costs against the Council for unreasonable behaviour, the Inspector concluded;

- Extensive professional evidence did not support a refusal of planning permission.
- No evidence was presented to convince the Inspector to disagree with these professionals.
- Refusing to grant planning permission was unreasonable.

2. PROPOSAL(S):

To agree a supplementary estimate of a maximum of £26,000 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. OPTIONS:

1. To accept the officer recommendation; or

2. To consider that there are robust reasons not to accept the officer recommendation and refuse the application.

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:

Financial cost to the Council

7. REASON FOR THE DECISION:

The Council is required to settle the award of costs.

8. EFFECTIVE DATE OF THE DECISION: 12 May 2021

9. BACKGROUND PAPERS:

Details of the application, appeal and costs award are available under P/58/19/PL at www.arun.gov.uk/weekly-lists