

ARUN DISTRICT COUNCIL

REPORT TO AND DECISION OF CORPORATE POLICY AND PERFORMANCE COMMITTEE ON 17 JUNE 2021

SUBJECT: Supplementary Estimate to Cover Costs for Defending Appeal on Land South of Barnham Station, Barnham.

REPORT AUTHOR: Claire Potts, Strategic Development Team Leader
DATE: June 2021
EXTN: x 37698
AREA: Planning

EXECUTIVE SUMMARY:

An appeal has been submitted against the decision of the Council to refuse planning permission for up to 200 dwellings on Land South of Barnham Station, Barnham (application reference BN/142/20/OUT). The application was refused under delegated authority on 23 February 2021 for ten reasons relating to poor placemaking, highway impact and lack of mitigation, impact on high quality trees, concerns around foul drainage, flooding, air quality, securing affordable housing and the impact on the Barnham Church Lane Conservation Area.

The appeal will be heard in September 2021 and is to be heard by way of a Public Inquiry lasting an estimated eight days.

This report seeks approval for a supplementary estimate of up to £50,000 to cover the costs of defending this appeal.

RECOMMENDATIONS:

The Committee is asked to make the following recommendation to Full Council:

To approve a supplementary estimate of £50,000 for costs associated with defending the appeal in respect of application BN/142/20/OUT. These include Counsel costs and costs of appointment of planning consultants and any specialist consultants to assist with defending the appeal.

A supplementary estimate of £50,000 equates to a band D equivalent Council Tax of £0.80.

1. BACKGROUND:

1.1 Gleeson Strategic Land submitted to the Council, on 24 November 2020, an outline planning application seeking permission for up to 200 residential dwellings with access taken from Marshall Close, associated infrastructure & landscaping & demolition of existing buildings. All detailed matters were reserved other than the means of access into the site. The development site covers 13.8 hectares.

The application was determined under delegated authority on 23 February 2021. In exercise of its statutory rights under Section 78 of the Town and Country Planning Act 1990, Nexus Planning on behalf of Gleeson Strategic Land, 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.

The reasons for refusal related to poor placemaking, highway impact and lack of mitigation, potential impact on high quality trees, concerns around foul drainage, flooding, air quality, securing affordable housing and the impact on the Barnham Church Lane Conservation Area.

An appeal will be heard into the proposal which will begin on the 21 September 2021. It is likely that the appeal will last up to 8 days, there is a great deal of work involved in preparing the Council's case for the appeal.

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 estimates are currently being sought. Based on previous appeals this is likely to be approximately £15,000 plus VAT for representation and for the work involved in the preparation and attendance at the appeal.

The Council will also need to appoint planning consultants to defend the Council's case. Fee proposals are currently being sought from planning firms. Based on previous appeals this is likely to be approximately £20,000 plus VAT and disbursements based 10 days preparatory work, and an eight day inquiry.

The Council will also need to appoint specialist consultants to defend and support the technical reasons for refusal relating to highways. Fee estimates for this work are being sought and an additional amount of approximately £15,000 is required for the work involved for specialist transport consultants for the preparation and attendance at the appeal.

Therefore, in order for the Council to defend the appeal, minimum costs of £50,000 will be incurred.

The Planning department's Consultant and Legal Fees 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 a maximum of £50,000 for costs associated with defending the appeal in respect of application BN/142/20/OUT. These include Counsel costs and costs of appointment of planning consultants and any specialist consultants to assist with defending an appeal. This does not cover the eventuality that the Council lose the appeal and any cost claim by the appellants against the Council is successful.

3. OPTIONS:

There is no alternative to defending the appeal and appointing Counsel. Council officers could defend the appeal instead of appointing planning consultants but don't have the capacity to do so. Specialist highways advice is needed to defend the highway related reasons for refusal.

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.

A supplementary estimate results in expenditure above the approved budget and requires approval from Full Council.

7. REASON FOR THE DECISION:

For an appeal by public inquiry, legal representation is required.

8. BACKGROUND PAPERS:

Details of the application are available under BN/142/20/OUT