

Report of the Chief Executive

Planning Appeal Costs

1. Purpose of Report

To inform Members about the recent costs awarded against the Council following successful appeals by developers.

2. Recommendation

The Committee is asked to NOTE the contents of the report.

3. Detail.

In terms of providing context, if planning permission is refused any applicant has the right to appeal the decision. The applicant can appeal the decision to the independently run Planning Inspectorate, which can ultimately decide if planning permission should be granted or not. The appellant, through this route, also has the opportunity to submit a 'Costs Appeal' and make a case that the Council has acted unreasonably in refusing the planning application, and ask for their reasonable costs to be reimbursed. This process usually occurs, though not exclusively, when a Planning Officer has recommended approving an application and this is refused or overturned by Members at Planning Committee.

In 2023/24 the following costs have been awarded against the Council (following negotiations).

Application	Date	Award
Chilwell College Site, Beeston	May 2023	£23,560
150 Queens Road, Beeston	June 2023	£1,320
Kings Carpet Site, Beeston	July 2023	£894
Station Road, Beeston	February 2024	£19,660
		£45,434

In the current financial year (April 2024 to March 2025) the following costs have been awarded against the Council:

Application	Date	Award
Chewton Street, Eastwood	October 2024	£45,000
	Total	£45,000

All of these amounts (excluding Chewton Street) have been paid and were negotiated down following expert work by Legal Services. All of these decisions that have resulted in a cost award against the Council were taken by Planning

Committee, and planning permission refused contrary to Officer recommendation and where relevant a 'cost warning' was given to Members from the Legal Services team and reinforced, if relevant, by the Head of Planning and Economic Development.

Furthermore, the reasons for refusal outlined by Members were contrary to expert advice, to which increases the risk of a costs award being made by the Planning Inspectorate. Essentially the reasons for refusal could not be justified by substantive evidence.

The Council has one of the worst records in the country in relation to the percentage of planning appeals allowed. Minimum standards are 10% and the Council's performance for major applications in the last quarter was 80%. Officers have a duty to warn Members that the consequences of this pattern could lead to designation of the Authority which could put its decision making capacity at risk. All Members of Planning Committee have had the relevant training. Refusing planning applications based on non-planning grounds or contrary to specialist evidence increases the risk to the Council. It is within the remit of the Committee to be able to make these decisions, however, there is a risk that the Council may be subject to special measures in addition to financial penalties if certain thresholds are reached.

As a result of this increased risk, an item has been added to the Strategic Risk Register that a report be presented to the Governance, Audit and Standards Committee on the risks and costs associated with Planning Committee decisions. This Committee is asked to note the matter as a governance concern.

4. Financial Implications

There is currently no specific provision for the cost of planning appeals and, with insufficient monies remaining available within the revenue contingencies budget, the additional costs will have to be funded directly from General Fund Reserve balances. This would require the approval of Cabinet. Going forward, it may be prudent to consider making an annual revenue budget allocation for appeal costs and, where this budget is not fully used in any given financial year, the unspent balance is transferred into an earmarked reserve for future planning appeal costs. This matter has been discussed at GMT and outlined as a potential 'risk' to the Council and the Strategic Risk Register has been updated accordingly in the relevant sections (as outlined in the risk register report as part of this agenda).

5. Legal Implications

The comments from the Monitoring Officer / Head of Legal Services were as follows:

6. Human Resources Implications

Not applicable.

7. Union Comments

Not applicable.

8. Climate Change Implications

Not applicable.

9. Data Protection Compliance Implications

This report does not contain any OFFICIAL(SENSITIVE) information and there are no Data Protection issues in relation to this report.

10. Equality Impact Assessment

Not applicable.

11. Background Papers

Nil.