

Report to the Council

Committee: Cabinet

Date: 26 June 2008

Portfolio Holder: Councillor C Whitbread

Item: 12

1. **PLANNING APPEAL - AWARD OF COSTS - WANSFELL COLLEGE, PIERCING HILL, THEYDON BOIS**

Recommending:

That a revenue DDF supplementary estimate in a sum to be confirmed be approved for 2008/09 to cover the costs awarded against the Council following a planning appeal in relation to development at Wansfell College, Theydon Bois.

1. In March 2007, planning permission was refused, contrary to officer recommendation, for a development scheme at Wansfell College, Piercing Hill, Theydon Bois (EPF/2464/06). The subsequent appeal, dealt with by way of a public inquiry, was allowed with planning permission being granted for the conversion of the former College building to form fourteen flats together with the formation of a car park towards the rear of the site, requiring the demolition of a single dwelling.
2. A separate appeal considered at the same time against the Council's decision to refuse permission to replace that single dwelling elsewhere on the site (EPF/1162/07) was dismissed.
3. An application was made by the appellant for an award of costs against the Council. This application was partially allowed, the Inspector concluding that the Council had acted unreasonably in the circumstances in refusing permission for the first application, but no award was made in relation to the second application.
4. The appellant has submitted a Bill of Costs through the High Court for £56,748.89. However, it is apparent that these are the total costs the appellant incurred in running both appeals and have included some costs for making the planning application itself. Consequently, officers have challenged the claim, initially simply by exchange of correspondence, though it is anticipated that the Bill of Costs will need to be formally challenged with the expertise of a Costs Draughtsman. The Council's initial position has been to offer less than 50% of the costs claimed.
5. There is no budget provision available for paying costs of this sum. Although small amounts are generally subsumed within the overall budget, an award in excess of £20,000 needs to be the subject of a supplementary estimate.
6. The payment of costs is non-optional, having been decided by a Planning Inspector and converted into a High Court Order against the Council. Accordingly, we recommend as set out at the commencement of this report. The sum finally settled will be reported to a future meeting.