

Report to the Cabinet

Report reference: C-045-2008/09.
Date of meeting: 6 October 2008.



Portfolio: Planning & Economic Development.

Subject: Award of Costs in Planning Appeal – 1 Connaught Avenue, Loughton.

Responsible Officer: Nigel Richardson (01992–564018).

Democratic Services Officer: Gary Woodhall (01992–564470).

Recommendations/Decisions Required:

(1) That, in respect of costs awarded regarding the planning appeals for 1 Connaught Avenue, Loughton, a DDF supplementary estimate in the sum of £50,000 be recommended to the Council for approval; and

(2) That, in order for payment to be made promptly at the negotiated figure of £50,000, approval is given for a temporary virement of £50,000 from the LDF budget.

Executive Summary:

Costs have been awarded against the Council in respect of three planning appeals relating to this site. There is no budget provision for costs awarded in these circumstances therefore a DDF supplementary estimate is required to cover the costs.

The claim is £56,551.93 (inclusive of VAT) and Officers have reviewed the claim and this appears reasonable for three appeals over a 3-day public inquiry. Officers however, have negotiated a lesser sum of £50,000, inclusive of VAT, which has been accepted by the appellant subject to it being paid within 14 days, by 8 October 2008, hence the requirement for part 2 of the above recommendation.

Reasons for Proposed Decision:

The payment of costs is non-optional, having been decided by a Planning Inspector.

Other Options for Action:

Essentially, not in this case. The evaluation of the cost drawn up by the appellant appears justified.

Report:

1. In October 2007, planning permission was refused, contrary to Officer recommendation, for two development schemes at 1 Connaught Avenue, Loughton (Planning application (EPF/1625/07 and 1783/07). A revised planning application was submitted (EPF/2598/07) and again refused planning permission, contrary again to Officers recommendation. The subsequent three appeals, dealt with by way of a three day Public Inquiry, were allowed so that planning permission was granted for side extension and rear extensions to extend offices.

3. An application was made by the appellant for a full award of costs against the Council. This application was allowed, the Inspector concluding that the Council had acted unreasonably in the circumstances in refusing permission for the first two planning application and in one of the two reasons in the third application. The Inspector concluded

that the council had behaved unreasonably in failing to justify their reasons for refusal and therefore caused the appellant to incur and waste expense unnecessarily.

5. There is no budget position available for paying costs of this kind. Although small amounts are generally subsumed into the overall budget, an award of this amount needs to be the subject of a supplementary estimate.

Resource Implications:

Nil budget for costs awards in 2007/08 estimates.

Legal and Governance Implications:

The Town & Country Planning Act 1990 as amended and regulations.

Safer, Cleaner and Greener Implications:

None.

Consultation Undertaken:

The Director of Corporate Support Services is advising on options and procedures.

Background Papers:

Application and appeal files and decisions.

Impact Assessments:

Apart from impact upon budgets, an award of costs of this kind impacts upon the Council's reputation in terms of good decision-making.