

# ***Report to the Council***

**Committee:** Cabinet

**Date:** 6 November 2012

**Portfolio Holder:** Councillor Richard Bassett  
(Planning)

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## **SUPPLEMENTARY DDF ESTIMATE – PLANNING APPEAL COMPENSATION BUDGET**

**Recommending:**

- (1) That a supplementary District Development Fund estimate of £90,000 be approved for Planning Compensations in respect of Planning Appeals in the Development Control budget; and**
  - (2) That any underspend in 2012/13 be carried forward into successive years until it is spent**
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1. In the case of planning application and enforcement appeals, costs may be awarded against the Council if the appeal inspector from the Planning Inspectorate considers that the Council has acted unreasonably in its decision making and caused another party, usually the appellant's consultant, unnecessary expense.

2. We have been advised that cost claims are gradually becoming more frequent, mainly because a claim can now be made in the case of written representation type appeals, which is the most common method of appeal. A cost claim is only successful if the planning inspector considers the Council has been unreasonable in its decision making, i.e. where a reason for refusal is not justified or supported. The likelihood of costs being awarded has also increased since the National Planning Policy Framework, which sets out the Government's planning policies and how they are expected to be applied, was published in March 2012 as this gives more weight to evidence based planning decision making and the need for an up to date Local Plan from April 2013.

3. We acknowledge that officers do try to put up a robust defence against any cost claim, but there is still the risk that, particularly in those cases where decisions are closely balanced or where officers' recommendations are overturned at planning committee, there will be an award of cost in favour of the appellant to be paid by the Council. We understand that the withdrawal of an enforcement notice can also be prone to a cost award, as can even dismissed appeals where a reason for refusal has not been substantiated or judged by the planning inspector to be reasonable.

3. Up to 2008, a supplementary DDF was sought each time appeal costs were awarded against the Council. In that year, because of one particularly costly case, the Council approved a contingency budget of £100,000 allocated to the Development Control Appeal budget. Subsequently, where a cost claim has been awarded against the Council, it has been paid out from this amount which has lasted for approximately four years.

4. We have been advised that there is currently £13,252 left in this budget and there are two outstanding cost claims to be paid amounting to almost £35,000 although these are being negotiated as the claims are considered excessive. Accordingly we are recommending that a further sum be allocated to this budget as set out at the commencement of this report.