

Development Management Division

Workloads and Resourcing

1. Contacts

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2. Executive Summary

This report outlines the need to (a) address temporary vacancies within the Development Management Division, which if unfilled will have an impact on the delivery of timely decision making and (b) provide further resourcing in order to defend six planning appeals arising from the Council's refusal of major planning applications.

3. Recommendation

3.1 That Cabinet recommends to Council to approve:

- i) The release of £21,000 from reserves to cover the cost of retaining temporary agency staff to address current staff vacancies, and**
- ii) The release of £276,650 from reserves to cover the cost of engaging specialist professional services to support the local planning authority in defending six planning appeals.**

4. Background

Staffing

- 4.1 In September 2021 Cabinet approved the creation of a new Senior Planning Officer post within the Majors and Business Team of the Development Management division. The new post was required to meet the demands of the team following the commitment of resources to major developments via Planning Performance Agreements (PPAs). Recruitment within the Planning sector has been particularly difficult in recent years, and since its creation the post has only been filled by a direct employee for a 6 month period between April 2022 and September 2022. Efforts to recruit to the post permanently are ongoing.

- 4.2 An agency planner (0.7 FTE) has been covering this post since it became vacant, dealing with a range of planning applications and appeal work arising from refused applications within the Majors and Business Team.
- 4.3 In order to ensure the ongoing effective handling of applications and appeals it is necessary to retain the 0.7 FTE agency planner in the Majors Team for a period of at least 4 months until October 2023. The amount required to fund the agency planner is £21,000.

Planning Appeals

- 4.4 Where major applications have been refused planning permission it is often necessary for the Council to defend its case at appeal through costly and time-consuming Public Inquiries and/or complex Hearings. In the absence of a 5 year housing land supply and with housing policies that are therefore deemed out of date, the Council has been subject to speculative applications for housing developments. Some of these applications have been refused planning permission and have become the subject of planning appeals, whilst others have been the subject of lengthy discussions and negotiations and amendments due to the Council's changing housing land supply position and planning policy position.
- 4.5 At present the Majors and Business Team are managing a number of complex Public Inquiries (PI) and Hearings (H). These include a conjoined Public Inquiry for 2 major housing schemes which cumulatively comprise up to 200 dwellings on Land North of A259, Flat Farm, Main Road and Land East of Broad Road, Chidham which reconvened on 15 May 2023, following an adjournment in February 2022. Additional appeals that have been lodged, and are at various stages in the process, include:
- PI for 103 dwellings at G & R Harris, Main Road, Nutbourne,
 - PI for 150 dwellings at Whitestone Farm, Main Road, Birdham,
 - PI for 300 dwellings at Highgrove Farm, Bosham
 - H for 30 dwellings at Flat Farm, Broad Road, Hambrook,
 - H for 73 dwellings at Koolbergen, Kellys and Bellfield Nurseries, Bell Lane, Birdham
- These appeals require input from a range of specialist planning, legal and related professionals.
- 4.6 The cost of defending each appeal varies depending on the mode of appeal (ie. a PI will always require a barrister, whilst this is not necessary for a H), duration, and the reasons for contesting the appeal which dictate which external experts may be required to support the Council in defending the case. The costs stated within this report are an accurate estimate at the time of writing, however they are subject to change if a relevant planning matter falls away (for example if officers are able to agree a position on 5 year housing land supply prior to the appeal), or indeed if a new planning matter arises and the duration of the appeal is extended.

- 4.7 The G & R Harris appeal is expected to last 4 days and requires a barrister plus experts on 5 year housing land supply and viability. At the time of writing this will likely be at a cost of approximately £62,000 plus VAT.
- 4.8 The Whitestone Farm appeal is expected to last 6 days and requires a barrister plus expert witnesses on 5 year housing land supply and landscape impacts. This will be at a cost of approximately £71,500 plus VAT.
- 4.9 The Highgrove Farm appeal is also expected to last 6 days and requires a barrister plus expert witnesses on 5 year housing land supply and landscape impacts. This will likely be at a cost of approximately £76,500 plus VAT.
- 4.10 The Flat Farm appeal is expected to take 1 day and requires a written statement from an expert on 5 year housing land supply at a cost of approximately £3,000 plus VAT.
- 4.11 The Koolbergen appeal is expected to take 1 day and requires the attendance of a 5 year housing supply expert at a cost of £5,500 plus VAT.
- 4.12 In addition, in respect of the appeal at Broad Road and Flat Farm, expert witnesses acting for the Council, and the Council's barrister, have been required to undertake additional work in response to changes in circumstances since the appeal was lodged, and the length of the appeal was increased to ensure all matters could be carefully examined. This has resulted in additional work in respect of the Council's barrister, ecology, landscape and 5 year housing land supply experts resulting in an additional cost of approximately £33,000.
- 4.13 The approximate costs of defending the Council's position in respect of these appeals amounts to £251,500, and this is beyond the budget for 2023/24, of which only £4,000 is not committed to the existing appeals and applications. Whilst a further contingency fund would contribute to the overall cost, experience indicates that it is not uncommon for appeals to be extended, and for unexpected costs to materialise as a result. Therefore, it is considered appropriate to secure a contingency of 10% (£25,150).
- 4.14 The amount required from reserves to cover the costs of the appeals detailed in this report, including a contingency, is £276,650.

5. Outcomes to be achieved

- 5.1 To ensure the necessary resources can be secured to engage appropriate specialist professional services to assist in the defence of planning appeals.

- 5.2 To secure temporary cover for existing vacant posts in the Development Management Teams to ensure the efficient management of planning appeals and applications within the Majors Team.

6. Proposal

- 6.1 It is proposed that £21,000 is released from reserves to extend the contract of the Senior Planning Officer (0.7 FTE) until October 2023, to assist with the handing of applications and appeals in the Majors Team.
- 6.2 It is proposed that £276,650 is released from reserves to ensure that the local planning authority is in a position to robustly defend its position in respect of significant planning appeals for which range of specialist services are required including legal, housing supply and landscape specialists.

7. Alternatives Considered

- 7.1 Consideration has been given to attempting to deal with the current Major planning applications within existing resources, without extending the contract of an agency planner. However, there is no capacity in the team to deal with the cases expediently alongside more recently submitted applications and the ongoing appeals. The repercussions of this are not only dissatisfaction by applicants, but also poor staff morale, and possibly greater staff turnover in positions that may be difficult to refill, and a greater number of appeals against non-determination, with the added cost that will arise as a result.
- 7.2 Consideration has been given to dealing with all of the existing planning appeals using in house resources only. However, Public Inquiries require specialists to give evidence on some of the complex matters that the Planning Inspector will consider, for which expertise needs to be sought externally. Hearings require specialists to discuss complex matters and answer questions from the Planning Inspector hearing the case. Failure to engage these specialist services will significantly reduce the Authority's prospects of success at these forthcoming appeals.

8. Resource and Legal Implications

- 8.1 There are no further resource or legal implications, beyond those set out in the body of the report. There may be an impact on legal team workloads, and this will be monitored going forward.

9. Consultation

- 9.1 No consultation has taken place or is necessary.

10. Community Impact and Corporate Risks

- 10.1 The recommendations in this report are important to reducing the risks associated with the ability of the Council to deal with the planning applications submitted to it and subsequent appeals.

10.2 Delays in the determination of planning applications can affect the viability of businesses as well as people's choices of how and where they live. It is therefore important that the Council deals with the determination of applications in an expedient manner.

11. Other Implications

Are there any implications for the following?		
	Yes	No
Crime and Disorder		X
Biodiversity and Climate Change Mitigation - Further resources will ensure proper consideration of these matters as part of the application determination process	X	
Human Rights and Equality Impact		X
Safeguarding and Early Help		X
General Data Protection Regulations (GDPR)		X
Health and Wellbeing – Workload levels are currently unsustainable for case officers. The proposed measures will reduce the risk of stress related illness.	X	

12. Appendices

12.1 None

13. Background Papers

13.1 None.