

APPENDIX D

WAVERLEY BOROUGH COUNCIL

EXECUTIVE - 5 OCTOBER 2010

Title:

**GODALMING KEY SITE APPEAL: REQUEST FOR
SUPPLEMENTARY ESTIMATE**

**[Portfolio Holder for Planning: Cllr Adam Taylor-Smith]
[Ward Affected: Godalming Central and Ockford]**

Note pursuant to Section 100B (5) of the Local Government Act 1972

An annexe to this report contains exempt information by virtue of which the public is likely to be excluded during the item to which the report relates, as specified in Paragraph 3 of the revised Part 1 of Schedule 12A to the Local Government Act 1972, namely:-

Information relating to the financial or business affairs of any particular person (including the authority holding that information).

Summary and purpose:

To request a supplementary estimate to ensure that the Council can effectively defend the decision of the Joint Planning Committee at a Public Inquiry relating to land at Godalming Key Site (APP/R3650/A/10/2135018).

How this report relates to the Council's Corporate Priorities:

The Council's priority is to protect and enhance Waverley's unique mix of rural and urban communities. The effective defence of the Council's case contributes to resisting development that is inconsistent with this aim.

Equality and Diversity Implications:

The effective defence of the Council's case at Public Inquiry contributes to ensuring that the needs of all sections of the community are taken into account in the decision regarding this significant development.

Resource / Value for Money implications:

The costs of the appeal are outlined in the report and are estimated depending on the option selected at between approximately £55,500 – £73,500 with a suggested contingency of £10,000. Quotations would be sought in accordance with Contract Procedure Rules for Counsel, drainage and design consultants. There is no budget provision for the expenditure currently. The Council would have to approve a supplementary estimate and finance these costs from the General Fund balance.

Legal Implications:

There is a direct implication for deciding the precise form of legal representation needed to defend the Council's position at Public Inquiry. These are outlined in the report.

Introduction/Background

1. In August 2009, the Council received a planning application for development of a mixed use development upon the Godalming Key Site (WA/2009/1674).
2. On 23rd February 2010, the Joint Planning Committee refused planning permission for the application. The reasons for refusal are set out at Annexe 1. The Decision Notice was dated 24th February 2010.
3. An appeal has been lodged against the Council's refusal. The appeal will be determined by way of Public Inquiry in the first quarter of 2011. The exact date of the Inquiry is yet to be confirmed by the Planning Inspectorate but it is likely to last for approximately 8 days.

Considerations

4. Whilst the Planning Service budget includes sums for both consultants and legal expenses, it would not cover the cost of an Inquiry of this size. It is therefore necessary to seek additional funding to support the Inquiry.
5. Members would wish to be assured that the Council's position is robustly defended with appropriate advocacy and planning expertise. Options for advocates are set out in (Exempt) Annexe 2.
6. In the past, for inquiries of this type, the normal practice has generally been for the necessary planning and other witnesses to be resourced externally although the Council's main planning witness for the previous Godalming Key Site Inquiry in 2008 was an internal member of staff. [Exempt Annexe 2 lists the areas where consultants would be needed, with an indication of costs. In addition, there would be various internal costs, particularly from staff that would need to support the consultant team].
7. The more cost-effective option would be to use Waverley's planning officers as planning witnesses. This was the approach successfully used for the Dunsfold Park Inquiry in March 2009. Officers consider that adequate experience exists but this would divert resources away from existing duties and this shortfall would need to be replaced by alternative cover estimated over a six week period to cost around £10,000. External specialist design and drainage advice would be required in any scenario. In addition, an external planning consultant would be required to defend reason for refusal No.4 (impact upon neighbouring amenity). Members disagreed with officers that the harm identified in the original application, had been overcome by amended plans presented to the Central Area Committee on 14th July 2010. If these same plans form part of the appeal submission, which is likely, then a Planning Consultant would be more appropriate as an expert witness to defend the Council's decision on that reason for reasons of professional conflict.

8. With the officers' preferred option of appointing a planning witness from existing staff resources, it is estimated that the total costs could be in the region of £55,500 - £73,500. To take account of contingencies, it is recommended that a further £10,000 is authorised in either instance. Members should note that transportation evidence will be provided by Surrey County Council, who will have to bear their own costs.

Management of Risk

9. The Council is obliged to defend its decision to refuse planning permission. To do otherwise would be likely to be considered to be "unreasonable" within the terms of Circular 03/2009 and result in the Council having to pay the costs of the appellant in respect of the appeal.
10. The Council also needs to produce evidence to substantiate each of its reasons for refusal, by reference to the development plan and all other material considerations. If it cannot do so, again costs may be awarded against it. Having said that, officers will seek to engage with the developers, as required in Central Government advice, to seek to agree Statements of Common Ground. These may involve reporting back to Members, if agreement can be reached on any of the reasons for refusal, for example, by the submission of further information. These may result in the withdrawal of one or more reasons for refusal and the consequent financial savings associated with this. However, this should not be relied upon.

Recommendation

It is recommended to the Council that a supplementary estimate of £73,500 be approved to meet the costs of the professional and other costs with a further £10,000 being approved but only spent subject to the agreement of the Chief Executive and Portfolio Holders for Finance and Planning.

Background Papers

There are no background papers (as defined by Section 100D(5) of the Local Government Act 1972) relating to this report.

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REASONS FOR REFUSAL

1. The proposed development does not meet the requirements of the wide ranging urban design policies contained in the Development Plan and the relevant government planning policy guidance and statements, in conflict with PPS1, PPS3, and Policies D1, D4 and TC6 of the Waverley Borough Local Plan 2002.
2. The architecture of the proposed development fails to reinforce or make a positive response to local distinctiveness and sense of place and introduces a building that would be out of character with and harmful to the appearance of the local area and townscape, in conflict with PPS1, PPS3, and Policies D1, D4 and TC6 of the Waverley Borough Local Plan.
3. The proposed development would have an adverse visual and intrusive impact on attractive and established views in the immediate locality and in longer distance views from the hills overlooking the town centre, in conflict with in conflict with Policies D1, D4 and TC6 of the Waverley Borough Local Plan.
4. The proposed development would be detrimental to the amenity of neighbouring properties by reason of overlooking and loss of privacy, in conflict with Policies D1, D4 and TC6 of the Waverley Borough Local Plan 2002.
5. There are insufficient crossing facilities across Flambard Way within the vicinity of the proposed development to cater for the increase in demand to cross Flambard Way from the Key Site when compared with permitted uses of the site. The absence of appropriate crossing facilities is likely to lead to conflict between pedestrians and motorists contrary to policies M2 (Movement Implications), and M4 (Provision for Pedestrians) of the Waverley Borough Local Plan 2002 and Policies CC7 (Infrastructure and Implementation), and T1 (Manage and Invest) of the South East Plan.
6. It has not been satisfactorily demonstrated how the groundwater flood risk to existing and new residents will be managed, in conflict with PPS25: Development and Flood Risk and Policy D1 of the Waverley Local Plan 2002.
7. The scale, bulk, height and built form of the proposed development adjacent to the town centre is inappropriate and would detract from and compete with the prevailing character of the locality and setting of the Conservation Area in conflict with Policies D1, D4, TC6 and HE8 of the Waverley Borough Local Plan 2002.