

Report to	-	Cabinet
Date	-	4 June 2018
Report of the	-	Executive Director
Subject	-	Outsourcing Public Inquiry - Strategy and Planning – RR/2017/456/P – Land North West of Shrub Lane, Burwash

Recommendation: It be **RESOLVED:** That funding up to £100,000 be provided to outsource defence of the appeal in respect of 'land north west of Shrub Lane, Burwash', to be heard via public inquiry.

Head of Service: Tim Hickling
Lead Cabinet Member: Councillor G.P. Johnson

Introduction

1. The purpose of this report is to seek Cabinet endorsement to appoint consultants and a Counsel to defend a planning appeal to be considered by public inquiry.
2. The appeal relates to the refusal of planning application RR/2017/456/P, Land North West of Shrub Lane, Burwash in respect of the "Demolition of the existing buildings and structures on site and the erection of 42 dwellings, enhancements to the existing Shrub Wood, together with an additional 1.4ha of new Community Woodland, associated access, parking and landscaping".
3. This application was reported to and considered by the Planning Committee on 12 October 2017. The recommendation to the Committee was to grant full planning permission, subject to finalisation of amendments, conditions and completion of a Section 106 agreement. The approval would have been CIL liable. After discussion the Planning Committee voted to overturn the recommendation and refuse the application.
4. The applicants have exercised their right to lodge an appeal to the Secretary of State and the appeal is to be heard via a public inquiry. The date of the Inquiry has not yet been finalised:

The Council has two options:

- a. Outsourcing the appeal to a planning consultant (circa £25,000 for preparation and appearance at the inquiry) plus cost of Counsel (circa £30,000). Costs are based on a three day inquiry and would be increased if it took longer. It should be noted these figures exclude potential costs that could be claimed from the appellant, if they are successful.

- b. Not to defend the appeal.
- 5. As the result of the Planning Committee's decision the appeal will need to be defended by outside consultants with input from Counsel. Initial quotes indicate that funding for up to £60,000 could be required. Therefore it is sensible to set aside a total provision of £100,000 towards the potential overall cost, if the appeal was successful.
- 6. If Council decides not to defend the decision then the Planning Inspectorate would need to be notified as a matter of urgency. Nevertheless some costs are likely to be incurred (as yet unknown), as the appellant will seek to recover their costs incurred to date.

New Homes Bonus Grant

- 7. Members will be aware that if the appellant wins the appeal against the decision then no New Homes Bonus Grant will be received. Based on the number of properties in the application it is estimated that £65,000 of grant will be foregone, including £5,000 of grant relating to affordable homes.

Conclusion

- 8. This report seeks Cabinet agreement for funding up to £100,000 to outsource defence of the appeal in respect of 'land north west of Shrub Lane, Burwash', to be heard via public inquiry and meet any appellant costs should the appeal be successful.

Dr Anthony Leonard
Executive Director

Risk Assessment Statement

There are significant financial risks if Rother District Council (RDC) defended the case and lost. If RDC wins the appeal there are still non-recoverable costs. If RDC chose not to defend the appeal there is a risk the appellant will seek to recover costs incurred to date.