

**STRATEGIC PLANNING,
SUSTAINABILITY AND
TRANSPORTATION COMMITTEE**

9 JANUARY 2018

Planning Appeals Costs

Final Decision-Maker	Strategic Planning, Sustainability and Transportation Committee
Lead Head of Service/Lead Director	Director of Finance and Business Improvement
Lead Officer and Report Author	Ellie Dunnet
Classification	Public
Wards affected	All

Executive Summary

This report summarises the budgeted and actual costs arising from development control appeals over the previous five years. This is an area which has been highlighted as a risk for the Council, due to the potential to incur significant financial losses. Following the second quarter budget monitoring report to this committee on 7 November, setting out the projected overspend in this area, a further report was requested, detailing further information regarding this risk.

This report makes the following recommendations to this Committee:

1. That the information regarding the financial impact of planning appeals since 2013/14 be noted.

Timetable

Meeting	Date
Strategic Planning, Sustainability and Transportation Committee	9 January 2018

Planning Appeals Costs

1. INTRODUCTION AND BACKGROUND

- 1.1 At its meeting in November, this committee requested a report outlining the current and projected costs arising from development control appeals, detailing historical data for the last five years, in order for the Committee to be able to fully understand underlying causes and trends.
- 1.2 This request was linked to a projected overspend on development control appeals costs reported at the end of the second quarter, and a referral from Policy and Resources Committee that both this Committee and the Planning Committee consider how they could manage these costs.
- 1.3 Table 1 below shows appellant costs incurred against the budgeted figure, year on year, from 2013/14. These figures also include costs incurred for Judicial Reviews where planning permission has been granted. The expenditure projection shown for 2017/18 is the full year forecast based on current known factors.
- 1.4 These costs include all external legal and consultancy costs incurred in investigating the appeal, as well as costs awarded against the Council. Additional miscellaneous costs for accommodation hire, photocopying etc. are also included within the totals shown above.

	2013-14	2014-15	2015-16	2016-17	2017-18 (forecast)
Total Budget for Year	£19,410	£181,010	£19,410	£119,410	£119,410
Total Expenditure	£85,792	£172,461	£207,609	£233,501	£319,000
Underspend/Overspend	-£66,382	£8,549	-£173,199	-£114,091	-£199,590

Table 1: Appeal Costs vs. Budget, 2013/14 – 2017/18

- 1.5 This shows a sharp year on year increase in costs arising from appeals, and existing projections indicate that further significant increases are likely in 2018/19. During 2014/15, the budget was temporarily increased in order to fund significant appeal costs incurred during that year. In 2016/17, the budget was increased permanently by £100,000 in recognition of the fact that the previous budget of £19,410 had proved to be insufficient.
- 1.6 As detailed in a separate report on the agenda for this meeting, an additional £400,000 has been earmarked within the budget proposals for 2018/19 onwards, relating to potential future costs which the Council may incur on appeals which are currently outstanding.
- 1.7 A further factor associated with appeals but not reflected in the figures shown above is staff time. In total, it is estimated that approximately 1,600 hours of officer time have been spent investigating and preparing for appeal hearings over the past five years, which equates to an average of 7.7 days of Planning Officer time per appeal.

- 1.8 The average hourly rate for a Planning Officer is approximately £42, rising to over £200 when overheads are included. This adds significantly to the cost of the appeal to the Council, and the impact of officer time spent on planning appeals is felt elsewhere in the planning service.
- 1.9 Further information regarding appeals which have had the most significant impact on financial resources and officer time is provided in the table below for information:

Planning Application	Estimated Planning Officer Time	Costs Incurred	Comments
Baltic Wharf	130 hours	£195,422	This was an appeal against non-determination. The appeal was upheld in a Public Inquiry. External consultants were employed, and two officers were involved from Development Management and Planning Policy.
Waterside Park	100 hours	£106,819	Planning application was refused by the Planning Committee. There was a Public Inquiry, and the appeal was dismissed. Subsequent Judicial Review challenge was also dismissed. External landscape and planning consultants were employed, and a Senior Planning Officer attended the Public Inquiry.
Land East of Hermitage Lane	150 hours	£101,950	The planning application was refused by Planning Committee, resulting in a 6 day Public Inquiry and call in by the Secretary of State. Officer time spent includes a referral back to planning committee to drop one of the grounds of refusal.
Park Valley Leisure Ltd.	80 hours	£59,883	A Public Inquiry was held and costs were awarded against the Local Planning Authority due to unreasonable behaviour.
Land East of Gleamingwood Drive	100 hours	£52,001	The application was refused by Planning Committee, resulting in a Public Inquiry and incurring costs for a

Planning Application	Estimated Planning Officer Time	Costs Incurred	Comments
			Landscape Consultant and Barrister.
Boughton Lane	200 hours	Total cost tbc	This application was refused by Planning Committee against the advice of officers. The grounds of refusal were later dropped by Planning Referrals committee but the appeal and Public Inquiry still went ahead. The Inspector dismissed the appeal. This was challenged by the developer and the decision was quashed and reverted back to the Planning Inspectorate to determine. On the basis of the site being taken out of the Local Plan, the developer withdrew the appeal.
Great Pagehurst Farm	100 hours	£27,366	Members overturned a previous decision and refused planning permission. The appeal was dismissed at the hearing.
Ham Lane	120 hours	£30,259	Members overturned a previous decision and refused planning permission. A Public Inquiry was held and the appeal was upheld following changes to the application.
Current Live Cases	530 hours	£632,140	Ongoing cases
Other Minor Cases (Under £30,000)	90 hours	£96,673	

Table 2: Officer Time

1.10 The above estimates of officer time do not include time spent by the Mid Kent Legal Service. Other costs, including appellant costs have been plotted on the chart below, which indicates a continuing upward trend in this area. This presents a risk to financial stability and it is therefore important to ensure that this is managed appropriately.

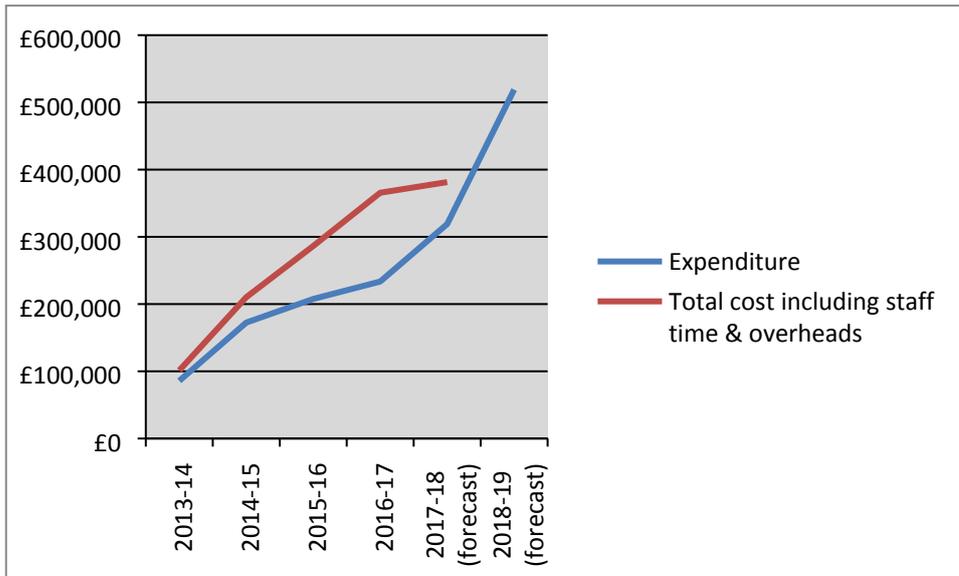


Table 3: Appeals costs including staff time

1.11 It is hoped that the adoption of the Local Plan will result in a reduction in appeals arising from planning decisions by establishing a clear framework through which planning decisions will be made. It is considered that this action will mitigate the risk of further increases in the volume of appeals and associated costs in future years.

2. AVAILABLE OPTIONS

- 2.1 The Committee has requested this information previously and is asked to note the report. This Committee has previously accepted that it has a role in reducing the risk of appeals, by setting a coherent and robust framework for planning decisions.
- 2.2 It is recommended that the Committee continue to monitor the situation with regard to appeals via quarterly budget monitoring reports, however, further detailed reports can be provided if required.

3. PREFERRED OPTION AND REASONS FOR RECOMMENDATIONS

- 3.1 As noted above, the Committee is asked to note this report.

4. RISK

- 4.1 This report highlights a risk in relation to costs arising from appeals made against planning decisions. The impact of these decisions is that the Council risks incurring estimated costs of £319,000 in the current financial year and potentially in excess of £500,000 during 2018/19. Consequently this has been assessed as a 'red' risk in line with the Council's risk management framework and risk appetite. We will continue to monitor this risk closely over the coming months.
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5. CONSULTATION RESULTS AND PREVIOUS COMMITTEE FEEDBACK

5.1 As noted earlier in the report, this committee requested further information regarding planning appeals in response to a referral from Policy and Resources Committee at its November meeting.

6. NEXT STEPS: COMMUNICATION AND IMPLEMENTATION OF THE DECISION

6.1 As this area has been highlighted as a 'red' risk, this will be monitored closely and any developments will be reported back to the committee via quarterly budget monitoring reports.

7. CROSS-CUTTING ISSUES AND IMPLICATIONS

Issue	Implications	Sign-off
Impact on Corporate Priorities	We do not expect the recommendations will by themselves materially affect achievement of corporate priorities.	Ellie Dunnet, Head of Finance
Risk Management	Already covered in the risk section – if your risk section is more than just a paragraph in this box then you can state 'refer to paragraph ... of the report'.	Ellie Dunnet, Head of Finance
Financial	The potential future financial impact arising from appeals is detailed within section 1 of the report.	Ellie Dunnet, Head of Finance
Staffing	No direct impact has been identified.	Ellie Dunnet, Head of Finance
Legal	This report is for noting only and there are no direct legal implications arising from it. The impact of appeal inquiries on Mid Kent Legal Services is highlighted in the main body of the report, and constitutes a not insignificant portion of officer time.	Ellie Dunnet, Head of Finance
Privacy and Data Protection	No direct impact has been identified.	Ellie Dunnet, Head of Finance

Equalities	No direct impact has been identified.	Ellie Dunnet, Head of Finance
Crime and Disorder	No direct impact has been identified.	Ellie Dunnet, Head of Finance
Procurement	No direct impact has been identified.	Ellie Dunnet, Head of Finance

8. REPORT APPENDICES

None

9. BACKGROUND PAPERS

None