

ALLOCATION OF FUNDING FOR PLANNING APPEALS

Head of Service:	Viv Evans, Head of Planning
Wards affected:	Wards
Urgent Decision?(yes/no)	Yes
If yes, reason urgent decision required:	The Council needs to respond promptly to planning appeals that have been received this month.
Appendices (attached):	None

Summary

There are two appeals which have now been submitted against the refusal of planning permission by Planning Committee and a third is expected shortly. The Planning Service does not have a budget for defending planning appeals and therefore resources are being requested to enable the Council to defend its position on the current and anticipated appeals.

Recommendation (s)

The Committee is asked to:

- (1) Allocate up to £96,000 to support the Council in defending planning appeals on the three major applications described in this report.**
- (2) That the £96,000 allocation is financed from new burdens planning grants held in the corporate projects reserve;**

1 Reason for Recommendation

- 1.1 Following a number of refusals of planning permission by Planning Committee, the Council has received two appeals and a third is expected. The decisions of Planning Committee are officer over turn decisions and therefore the Council will need to instruct external planning consultants and also seek legal representation and support on the appeals.

2 Background

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- 2.1 Two planning appeals have been submitted this month to the Planning Inspectorate in respect of two major planning applications which have been refused planning permission by Planning Committee. A third is expected shortly. All the refusals were against the officer recommendation.
- 2.2 In order to provide a robust defence of a decision in the case of an overturn decision, it is essential to submit a case to the planning inspectorate which has been prepared by an independent planning consultant to support the Council's reasons for refusal.
- 2.3 The council's performance at appeal in cases where major applications are refused against officer recommendation is monitored by central government. If more than 10% of such major appeals are allowed at appeal, then the council will be at risk of government intervention and ultimately its decision-making powers with regard to planning applications being removed.
- 2.4 It is important therefore that the council submits the strongest possible case at appeal in an effort to secure dismissal the current appeals.
- 2.5 The two planning applications the subject of current appeals relate to:

- **22-24 Dorking Road Epsom KT18 7LX (Reference: 20/00031/REF)
Planning Committee 3 September 2020**

Description of Development: Demolition of existing houses and erection of a part two, part three storey building with rooms in the roof and basement providing 20 flats. Basement parking for cars and cycles. Bins stores and associated hard and soft landscaping including new boundary walls and railings.

Decision: REFUSED based on the following reasons:

The proposed development by reason of its density, scale, massing, and bulk and detail gives rise to an unacceptably cramped and overdeveloped layout, leading to an overbearing relationship with the adjacent properties and the local street scene, contrary to the established character of the local area. The benefits of the development would be significantly and demonstrably outweighed by the harm when assessed against the policies in the National Planning Policy Framework taken as a whole. The proposal is contrary to the NPPF, Policy DM9, DM10 and DM11 of the Development Management Policies Document 2015 and CS5 of the Core Strategy 2007.

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The proposed development would not meet the parking standards as set out in Policy DM37 of the Development Management Policies Document 2015 resulting in harm on the amenities of surrounding residential occupiers' in terms of streetscene and availability of on-street parking. It would fail to comply with Policy CS16 of the Core Strategy 2007 and paragraph 102(e) of the NPPF 2019.

Appeal Received: 2 December 2020

- **140 and 142 Ruxley Lane West Ewell KT19 9JS (20/00029/REF)**
Planning Committee 5 November 2020

Description of Development: Demolition of existing dwellings and erection of 20 flats within two blocks with associated car parking and landscaping.

Decision: The Application be REFUSED based on the following reasons:

The proposed development by reason of its design, scale, and massing, gives rise to an unacceptably cramped and over-developed layout, leading to an overbearing relationship with the adjacent properties and the local street scene, contrary to the established character, and local distinctiveness of the local area. The proposal is contrary to para 127 (c) of the NPPF, Policy DM9 and DM10 of the Development Management Policies Document 2015 and CS5 of the Core Strategy 2007.

Appeal received: 26 November 2020

3 Risk Assessment

Legal or other duties

3.1 Impact Assessment

3.1.1 None arising from the contents of this report.

3.2 Crime & Disorder

3.2.1 None arising from the contents of this report.

3.3 Safeguarding

3.3.1 None arising from the contents of this report.

3.4 Dependencies

3.4.1 None arising from the contents of this report.

3.5 Other

3.5.1 None arising from the contents of this report.

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4 Financial Implications

- 4.1 The Council's planning service does not have sufficient resources to undertake the significant work and preparation necessary to defend appeals on major applications.
- 4.2 It is difficult to know at this stage what the full cost of defending appeals on major planning applications will be, as it will depend on the form the appeal takes (for example whether it takes the form of a public enquiry) and whether the applicant is seeking their costs to be awarded against the Council, should the Council's decision be overturned. At the higher end of the spectrum these costs could be in excess of £100,000.
- 4.3 **Chief Finance Officer's comments:** The Corporate Projects Reserve currently holds planning-related new burdens grants totalling £96,000, which can be allocated for this purpose.

5 Legal Implications

- 5.1 None arising from the contents of this report.
- 5.2 **Monitoring Officer's comments:** None arising from the contents of this report.

6 Policies, Plans & Partnerships

- 6.1 **Council's Key Priorities:** The following Key Priorities are engaged:
- 6.2 **Service Plans:** The matter is not included within the current Service Delivery Plan.
- 6.3 **Climate & Environmental Impact of recommendations:** N/A
- 6.4 **Sustainability Policy & Community Safety Implications:** N/A
- 6.5 **Partnerships:** N/A

7 Background papers

- 7.1 The documents referred to in compiling this report are as follows:

Previous reports:

- None

Other papers:

- Reports to Planning Committee 3 September 2020 and 5 November 2020