

Decision Maker: Development Control Committee

Date: 23 November 2010

Decision Type: Non-Urgent Non-Executive Non-Key

Title: **PLANNING APPEALS - COSTS 2010**

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Chief Officer: Chief Planner

Ward: All

1. Reason for report

This report provides an update on the award of costs in planning appeals in 2010. 30 claims for costs were received in the period January - October 2010 of which 12 have been allowed and 15 dismissed and 3 are awaiting decisions. To date 4 costs claims have been paid totalling approx £10,000-00 and a further 5 claims have been received and are awaiting settlement. There have been no costs awarded in the Council's favour.

2. **RECOMMENDATION(S)**

2.1 Members note the report.

Corporate Policy

1. Policy Status: <please select>.
 2. BBB Priority: <please select>.
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Financial

1. Cost of proposal: <please select>
 2. Ongoing costs: <please select>.
 3. Budget head/performance centre:
 4. Total current budget for this head: £
 5. Source of funding:
-

Staff

1. Number of staff (current and additional):
 2. If from existing staff resources, number of staff hours:
-

Legal

1. Legal Requirement: <please select>
 2. Call-in: <please select>
-

Customer Impact

1. Estimated number of users/beneficiaries (current and projected):
-

Ward Councillor Views

1. Have Ward Councillors been asked for comments? <please select>
2. Summary of Ward Councillors comments:

3. COMMENTARY

- 3.1 In the period January to October 2010 there have been a total of 30 claims for costs relating to planning appeals. The Planning Inspectorate has determined 27 costs claims against the Council of which 12 have been allowed and 15 dismissed. There have been no awards of costs against appellants.
- 3.2 In the period to October 2010 4 claims for costs have been paid with 5 claims currently under consideration. There are a further 7 cases where costs awards have been made but are awaiting submission of claims. The total amount paid to date is approximately £10,000 although there are a number of large claims currently awaiting settlement. Members are notified of all costs decisions together with all appeal decisions on a weekly basis. A list of all costs decisions received in 2010 to date is attached (Appendix 1).
- 3.3 Costs could previously be claimed only at local inquiries or hearings but the Regulations now enable claims to be made in written representation cases and there have been 17 such claims so far this year. 6 claims have been allowed and 11 dismissed under the new procedure. Although fewer appeals have been received in 2010 the number of costs claims is likely to increase as the proportion of written representation cases continues to rise.
- 3.4 In planning and enforcement appeals the main parties are normally expected to meet their own expenses irrespective of the outcome. Costs may be awarded on the grounds of 'unreasonable behaviour' resulting in unnecessary or wasted expense. Policy guidance is provided in the Costs Circular (CLG Circular 03/09) and applications for costs are assessed in the context of this guidance.
- 3.5 The most common reason for awarding costs against the Council is lack of sufficient evidence to substantiate a reason for refusal. Inspectors have been critical of the Council's failure to produce convincing and credible supporting evidence to sustain objections to a proposed development. Similarly the Inspector may conclude that there was insufficient evidence to take enforcement action. Withdrawal of an enforcement notice may suggest that it should not have been issued in the first place. Submission of a late statement or failure to produce a statement at all may also be examples of unreasonable behaviour when awarding costs.
- 3.6 In a recent costs decision an Inspector was critical of the Council's inability to produce convincing evidence in support of a parking objection when the proposal met the relevant parking standard in the adopted UDP. In another case the Inspector concluded that in refusing permission the Council had failed to demonstrate that there were sustainable reasons when officers had recommended permission which amounted to unreasonable behaviour. In another case, costs were awarded when the Council failed to provide sufficient supporting evidence resulting in an adjournment of the hearing which incurred the appellant in additional costs.

Non-Applicable Sections:	
Background Documents: (Access via Contact Officer)	

TCB/October 2010