

## RURAL, ECONOMIC AND ENVIRONMENTAL AFFAIRS COMMITTEE

16 NOVEMBER 2011

### APPEAL AGAINST REFUSAL OF PLANNING APPLICATION : 11/00338/OUT: ERECTION OF 50 DWELLINGS; OLD CLAY PITS SITE, GRANTHAM ROAD BOTTESFORD.

#### REPORT OF HEAD OF REGULATORY SERVICES

##### 1.0 PURPOSE OF REPORT

- 1.1 To seek authority for funding (estimated as £10,000 initially) to support advocacy and legal costs for a planning appeal submitted in respect of the above site, that is to be determined by formal Public Inquiry likely to be held in early 2012.

##### 2.0 RECOMMENDATIONS

- 2.1 **That a sum of £10,000 is committed from the General Fund Working Balance to support legal advocacy, to enable full participation at a standard that maximises the prospects of success in the appeal Inquiry.**

##### 3.0 KEY ISSUES

- 3.1 Members will be aware that the Council determined the above application. It was submitted in early 2011 and was determined in July 2011.

- 3.2 Permission was refused for the following reasons:-

- 1) The site is located outside the designated village envelope and represents a Greenfield site. The site is away from the village centre and is considered to be an unsustainable location.
- 2) A deliverable five year land supply exists for the Borough which considerably exceeds the housing provision set out in the RSS. There is therefore insufficient justification to warrant the new dwellings in an area located within the countryside, contrary to the policies of the Development Plan. Furthermore, it is considered that even if a shortfall in the 5 year supply is identified, there would be no presumption that this site would be appropriate to meet demand as it does not perform well against the criteria of PPS3 or the RSS, in terms of the 'hierarchy' of site selection.
- 3) A development of 50 dwellings, on a site of this size, on the edge of the village settlement location is not considered to be in keeping with the form and character of the settlement. The development of this size would result in an urban form which fails to reflect the locally distinctive character of Bottesford.

- 3.4 The Head of Legal Services has made enquires of several advocates regarding their availability and cost, and it is estimated expenditure of £10,000 will be incurred. There is no provision for such expenditure within existing budgets; these are formulated on the basis of known demands, without contingency for possible unplanned events such as this Inquiry. It is anticipated that the Inquiry will last up to 3 days.

- 3.5 In view of the timetables laid out for the appeal, liaison has begun with the preferred legal representative and the initial submissions to the Planning Inspectorate have been submitted.

4.0 **POLICY AND CORPORATE IMPLICATIONS**

4.1 Clearly the funds requested remove the possibility of them being used for other purposes. However, the council is required to participate in the appeal and the appeal format selected requires legal representation. The Head of Legal Services has identified the advocacy from a range available, but scope is limited due to availability and the specialist nature of the issue.

5.0 **FINANCIAL AND OTHER RESOURCE IMPLICATIONS**

5.1 As specified above

6.0 **LEGAL IMPLICATIONS/POWERS**

6.1 There are no legal implications relating to this report.

7.0 **COMMUNITY SAFETY**

7.1 There are no direct community safety implications relating to this report.

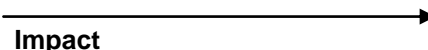
8.0 **EQUALITIES**

8.1 There are no Equalities implications relating to this report

9.0 **RISKS**

10.1

Very High A						
High B	1	2,3			<b>Risk No.</b>	<b>Description</b>
Significant C					1.	The appeal is not adequately defended and results in a undesirable permission
Low D					2.	Reputational – local residents expect ‘best endeavour’ to defend our decisions
Very Low E					3.	Policy – inadequate defence may result in a decision that has policy implications for development in other unplanned and undesirable locations
Almost Impossible F						
	IV Negligible	III Marginal	II Critical	I Catastrophic		



10.0 **CLIMATE CHANGE**

10.1 There are no climate change implications relating to this report

11.0 **CONSULTATION**

11.1 No consultation has been carried out in respect of this request specifically. The application itself was of course the subject of full statutory consultation requirements and gave rise to a significant number of representations from local residents.

## 12.0 **WARDS AFFECTED**

12.1 Bottesford Ward is most directly affected.

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Contact Officer: J Worley; Head of Regulatory Services  
Date: 2<sup>nd</sup> November 2011  
Appendices: A: supplementary Estimate form  
Background Papers: Planning Application file 11/00338/OUT