

## REVENUE MONITORING – PLANNING SERVICES EXPENDITURE ON LEGAL AND CONSULTANCY COSTS

**Report By: Head of Planning and Transportation**

### Wards Affected

County-wide.

Specific cases are detailed in the report in the following wards:

### Purpose

1. To provide the Committee with the information requested at a previous meeting.

### Financial Implications

2. The sums of money spent on legal/consultancy/awards of costs are set out in the body of this report.
3. In the current financial year the budgets for the relevant areas are as follows:

P5200 3401	Court Costs	£0
P5200 3404	Consultants	£0
P5200 3407	Legal	£9740
P5200 3438	Counsel Fees	£0

4. As a context the total development control budget for this year (P5200) is £1,325,879. This is primarily based around staffing and other associated costs. These costs are offset by planning application fees (P1000 9372). The target budget for the year is £1,223,870. As Members have previously been advised this budget is underperforming as economic conditions have become unfavourable to new development proposals coming forward.

### Background

5. Members have requested that information be brought to this meeting on expenditure on legal and consultancy costs in the planning arena, and in relation to the costs incurred in pursuing appeals on proposals refused against officer recommendation in particular.

---

Further information on the subject of this report is available from  
Andrew Ashcroft on 01432 383098

6. On this basis the report is divided into three sections as follows:

Part 1. An overview of total expenditure in these areas in the last two financial years.

Part 2. An analysis of costs incurred in appeals where refusal was against officer advice.

Part 3. An analysis of costs incurred in other cases where approval of applications/allocation of land for development generated abnormal expenditure.

**Part 1 – Overview**

7. In 2007/08 the following expenditure in these areas was incurred as follows:

P5200 3401	Court Costs	£165
P5200 3404	Consultants	£29,949
P5200 3407	Legal	£53,981
P5200 3438	Counsel Fees	£16,370
	<b>Total</b>	<b>£100,465</b>

8. In 2008/09 (to date) equivalent expenditure is:

P5200 3401	Court Costs	£9,935
P5200 3404	Consultants	£29,090
P5200 3407	Legal	£56,814
P5200 3438	Counsel Fees	£1,012
	<b>Total</b>	<b>£164,561</b>

9. As a context the comparable total expenditure in previous years was as follows:

2004/05	£29,302
2005/06	£83,116
2006/07	£61,770

10. Similarly as a context the total budget (for all these budget codes) was/is as follows:

2004/05	£10,890
2005/06	£11,160
2006/07	£11,440
2007/08	£11,440
2008/09	£9,739

11. In previous financial years the overspend on these budgets has been compensated by overperformance on income (i.e. application fees). In this current financial year the overspend on these budgets have combined with the underperformance on planning application fees to generate the evolving service overspend in 2008/09.

12. The figures in this part of the report represent the total costs incurred in these areas of activity. They represent many aspects of the normal running of a planning service and include:-
- engagement of counsel for court appearances.
  - engagement of consultants for specialist advice
  - general legal costs of defending both delegated and committee decisions.
13. Part 2 of this report sets out the specific costs (included within Part 1 totals) relating to the defence of decisions to refuse planning applications against officer recommendation, and other abnormal elements of expenditure.

***Part 2 – Analysis of costs incurred in appeals where refusal was against officer recommendation***

14. Appendix 1 sets out a schedule of appeals that were upheld (i.e. planning permission was granted by a Planning Inspector) when the Council refusal was against officer advice. The associated costs (where appropriate) are set out against each application.
15. Appendix 2 sets out a schedule of appeals that were dismissed (i.e. the Planning Inspector agreed with the Council that the proposal was unacceptable) when the Council refusal was against officer advice. The associated costs (where appropriate) are set out against each application.

***Part 3 – Other cases generating abnormal expenditure***

16. In addition to the costs set out in Appendix 1 and Appendix 2 there have been three circumstances where abnormal costs have been incurred in these budgets in the last two financial years, and as follows:

*Judicial Review into the adoption of the Unitary Development Plan*

This matter has been extensively documented. The Bullinghope site has been quashed from the Plan.

Indicative costs incurred in this process are:

Award of Costs	£15,275
Counsel Fees	£ 8,037
Travel/Hotels	£ 930
General Officer Time	

*Local Government Ombudsman – Findings of Maladministration Walnut Tree Cottage, Pudleston*

Valuation Fees	£2,950
General Officer Time	

*Judicial Review – Suspension of Polytunnel Code of Practice and move to Supplementary Planning Document*

Legal Fees/Costs                      £28,787  
General Officer Time

## Considerations

1. These various expenditure items have stretched the appropriate budgets.
2. The additional officer time spent on resolving these matters has taken away normal capacity to deliver the Planning Service. By definition these matters have taken up a disproportionate amount of senior officer time.
3. With reduced income levels expenditure on these budgets is contributing to the overspend in the Service in this financial year.

## RECOMMENDATION

**THAT**     the Committee note the information in the report.

## BACKGROUND PAPERS

- None.

## Appendix 1

## Schedule of appeals upheld

Application No.	Site	Ward	Costs
<b>2007/08</b>			
SE2006/2329/F	Haigh Engineering, Alton Road, Ross-on-Wye	Ross-on-Wye East	Written Representations. No award of costs. Normal officer costs.
CE2007/0624/A	Stirlings Suzuki, Callow	Hollington	Written Representations. No award of costs. Normal officer costs.
CW2006/2743/F	3 Yarlinton Mill, Belmont	Belmont	Written Representations. No award of costs. Normal officer costs.
CE2006/3982/F	Stoneleigh/Rowberry, Lugwardine	Hagley	Written Representations. No award of costs. Normal officer costs.
CE2006/2553/F	Plot 130, Saxon Court, Bullingham Lane	St. Martins & Hinton	Written Representations. No award of costs. Normal officer costs.
NC2007/0623/F	The Bungalow, Rylands Road, Leominster	Leominster South	Written Representations. No award of costs. Normal officer costs.
CW2007/2009/F	The Roods, Marden	Sutton Walls	Written Representations. No award of costs. Normal officer costs.
NC2006/1215/F	Highwell House, Bromyard	Bromyard	Written Representations. No award of costs. Normal officer costs.
CE2006/1978/F	Bartestree Convent, Bartestree	Hagley	Written Representations. No award of costs. Normal officer costs.
NC2007/0656/F	Plot 3, Village Hall, Stoke Prior	Hampton Court	Written Representations. No award of costs. Normal officer costs.
CE2007/0195/F	Access from U72011 road to field OSM	Hollington	Written Representations. No award of costs. Normal officer costs.

Further information on the subject of this report is available from  
Andrew Ashcroft on 01432 383098

SE2006/1495/F	The Singing Stud Ltd, Much Marcle, Ledbury	Old Gore	Written Representations. No award of costs. Normal officer costs.
SE2007/0704/F	The Singing Stud Ltd, Much Marcle, Ledbury	Old Gore	Written Representations. No award of costs. Normal officer costs.
SE2007/0705/F	The Singing Stud Ltd, Much Marcle, Ledbury	Old Gore	Written Representations. No award of costs. Normal officer costs.
CE2007/0313/F	Stokes Stores, Holme Lacy Road, Hereford	St. Martins & Hinton	Written Representations. No award of costs. Normal officer costs.
SE2005/3806/O	Singing Stud, Much Marcle	Old Gore	Written Representations. No award of costs. Normal officer costs.
CE2007/1930/F	Frome Court, Bartestree	Hagley	Written Representations. No award of costs. Normal officer costs.
SE2007/1391/F	The Chase Hotel, Ross	Ross-on-Wye East	Written Representations. No award of costs. Normal officer costs.
<b>2008/09</b>			
SE2007/1391/F	The Chase Hotel, Ross	Ross-on-Wye East	Written Representations. No award of costs. Normal officer costs.
CW2007/2834/F	Mulberry Close, Belmont	Belmont	Public Inquiry. Counsel Costs £2,400 Cost Award £37,500. Cost Assessor £150.00.
NC2007/2258/F	44 Vicarage Street, Leominster	Leominster North	Written Representations. No award of costs. Normal officer costs.
NC2007/2869/F	44 Vicarage Street, Leominster	Leominster North	Written Representations. No award of costs. Normal officer costs.
SE2007/3592/F	10 St. Georges, Woolhope	Old Gore	Written Representations. No award of costs. Normal officer costs.
SE2008/0039/F	Green Orchard, Ryefield Road, Ross	Ross-on-Wye East	Written Representations. No award of costs. Normal officer costs.

Further information on the subject of this report is available from  
Andrew Ashcroft on 01432 383098

SE2007/3872/F	Hope and Anchor, Ropewalk, Ross	Ross-on-Wye West	Written Representations. No award of costs. Normal officer costs.
CW2007/2684/F	131 Whitecross Road, Hereford	St. Nicholas	Written Representations. No award of costs. Normal officer costs.
CE2007/3542/F	16 Aylestone Hill, Hereford	Aylestone	Written Representations. No award of costs. Normal officer costs.
SE2007/3043/F	Kings Head Hotel, High Street, Ross	Ross-on-Wye West	Written Representations. No award of costs. Normal officer costs.
SE2008/0553/F	Old Canoe Shop, Mill Pond Street, Ross	Ross-on-Wye East	Written Representations. No award of costs. Normal officer costs.
SW2007/2050/F	Shop Barn, Pwl-y- Hunt, Pontrilas	Golden Valley South	Written Representations. No award of costs. Normal officer costs.
CE2008/0959/F	Common Hill Lane, Fownhope	Backbury	Written Representations. No award of costs. Normal officer costs.

---

Further information on the subject of this report is available from  
Andrew Ashcroft on 01432 383098

## Appendix 2

## Schedule of appeals dismissed

Application No.	Site	Ward	Costs
<b>2007/08</b>			
SE2006/3883//F	West Ridge, Ashfield Park, Ross-on-Wye	Ross-on-Wye West	Written Representations. No award of costs. Normal officer costs.
NC2006/2953/O	78 Castlefields, Leominster	Leominster South	Written Representations. No award of costs. Normal officer costs.
SW2006/3430/O	Steiner School, Much Dewchurch	Valletts	Joined with SW2007/1091/O Consultants Fee £16,216 Counsel Fees £4,100
SW2007/1091/O	Hereford Waldorf School, Much Dewchurch, Herefordshire	Valletts	Joined with SW2006/3430/O Consultants Fee £16,216 Counsel Fees £4,100
<b>2008/09</b>			
NE2007/0966/F	Homend Service Station, Ledbury	Ledbury	Informal Hearing. Partial award of costs to applicant £2,500

---

Further information on the subject of this report is available from  
Andrew Ashcroft on 01432 383098