

DECISION ITEM



REPORT OF	MEETING	DATE	ITEM NO
DEVELOPMENT MANAGEMENT	DEVELOPMENT MANAGEMENT COMMITTEE	27 JULY 2016	5

CONSIDERATION OF COUNCIL'S CASE TO DEFEND APPEAL AGAINST NON-DETERMINATION OF PLANNING APPLICATION 15/0547 AT BROOK FARM, DOWBRIDGE, KIRKHAM

PUBLIC ITEM

This item is for consideration in the public part of the meeting.

SUMMARY

The council is faced with an appeal on grounds of its failure to determine planning application 15/0547 within the requisite timescale of 13 weeks from submission. The application is submitted in outline and relates to the erection of up to 170 dwellings and associated infrastructure on a site that would be accessed from Dowbridge in Kirkham.

This appeal is to be determined following a public inquiry which is programmed to commence on 22 November 2016. The appeal regulations require that the council submits a Statement of Case to outline the areas it wishes to dispute with the appellant at the Inquiry. This is normally framed by the reasons for refusal of an application, but in the case of a non-determination appeal such as this there has been no formal assessment of the planning merits of the proposal. The Statement of Case is to be submitted to the Planning Inspectorate by 10 August 2016 and will be prepared by council officers working with a barrister who has been instructed to present the council's case on the appeal.

The Appendix to this report describes the application, consultation responses, neighbour comments, planning policy background, and officer views on the material planning considerations raised by the application / appeal.

It recommends that the council seek to defend the appeal on the grounds of the scale of the development proposed and so the harmful visual impact that it would cause to the setting of Kirkham and the area of the application site in general. A second reason related to the lack of any mechanism to secure appropriate contributions from the development towards affordable housing, education places, etc is also appropriate.

RECOMMENDATIONS

1. Consider the application as set out in the appendix to this report and direct the Head of Planning and Regeneration to prepare the council's Statement of Case on the appeal and progress the council's case (including the wording of planning obligations, the preparation of Proofs of Evidence, the signing of Statements of Common Ground and all other such associated matters) in accordance with the committee's conclusions.

CORPORATE PRIORITIES			
To Promote the Enhancement of The Natural & Built Environment (Place)	√	To Encourage Cohesive Communities (People)	√
To Promote a Thriving Economy (Prosperity)	√	To Meet Expectations of our Customers (Performance)	√

SUMMARY OF PREVIOUS DECISIONS
There have been no previous decisions on this matter or site.

REPORT

1. See attached Appendix presented in the usual Development Management Committee agenda style.

IMPLICATIONS	
Finance	<p>There are costs involved in defending the appeal such as staff time of the planning and legal services, and the costs involved with instructing a barrister. This report does not alter those costs but could reduce them as it allows for effective negotiations to be undertaken to agree matters of common ground and so reduce the running time of any Inquiry.</p> <p>There is also the possibility that the appellant may apply for its costs if the council is found to behave unreasonably in defending elements of the appeal. By ensuring that its case is submitted on the basis of the best knowledge of the background to the proposal, and that this is with the appropriate (delegated) authority of the Development Management Committee the risks of these costs awards are minimised.</p>
Legal	The Head of Governance will continue to present the case for the Council in accordance with its decision.
Community Safety	None.
Human Rights and Equalities	The rights of third parties to comment on the development will be maintained through the continuation of the appeal and the resubmitted application.
Sustainability and Environmental Impact	The Sustainability and environmental impacts of the proposed development will be addressed in the consideration of the appeal and resubmitted application.
Health & Safety and Risk Management	The submission of a Statement of Case that does not have the weight of Member support places the council at a greater risk of costs being awarded.

LEAD AUTHOR	TEL	DATE	DOC ID
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LIST OF BACKGROUND PAPERS

Name of document	Date	Where available for inspection
Planning and appeal file 15/0547	13 August 2015	www.fylde.gov.uk/planning
Planning file 15/0827	20 November 2015	www.fylde.gov.uk/planning