

**NEWCASTLE-UNDER-LYME BOROUGH COUNCIL**  
**EXECUTIVE MANAGEMENT TEAM'S REPORT TO COUNCIL**

**Date 16 July 2014**

1. **REPORT TITLE**                      **Budget 2014/15 – Virement Request**
- Submitted by:**                      **Executive Director (Resources and Support Services)**
- Portfolio:**                              **Finance and Resources**
- Ward(s) affected:**                      **All**

**Purpose of the Report**

To seek full Council's approval for the virement of monies to pay for costs of appeals that have recently been received against the decisions by the Planning Committee to refuse two planning applications.

**Recommendation:**

**That Council approves funding of £75,500 from the Revenue Investment Fund and £36,500 from the Budget Support Fund to meet the costs and expenses of the appeals.**

**Reasons**

To conform with the rules regarding virement that are set out within the Council's financial regulations.

1. **Background**

- 1.1 Appeals have recently been received against the decisions by the Council to refuse the following two planning applications:
- Residential development on land at the end of Gateway Avenue, Baldwins' Gate (Ref. 13/00426/OUT), and
  - Student accommodation and residential development at The Hawthornes and Keele Campus, Keele (Refs. 13/00424/FUL & 13/00425/CON).
- 1.2 The appeals are to be determined by means of Public Local Inquiries and given the number of reasons for refusal (10 in the Gateway Avenue case and 5 in the Keele case), the Council will need to call a number of witnesses to give evidence in support of the Council's case and will have to appoint legal representatives.
- 1.3 This report outlines an estimate of the likely costs to the Council of defending these appeals and outlines the options for funding these costs. Paragraph A15 of the Council's financial regulations states that, "the Executive Director (Resources and Support Services) is responsible for advising the Cabinet or Full Council about whether a decision is likely to be considered contrary or not wholly in accordance with the budget". A number of actions are

listed as being ‘contrary to the budget’, one of which is “incurring interdepartmental transfers above virement levels”. Paragraph A23 of the regulations states that:

“The Full Council shall determine the limits, above which a Director may not approve virement without reference to the Full Council.....” The current “limit” in the financial regulations for reference to Full Council is anything above £50,000.

## 2. **Issues**

- 2.1 The estimated total costs to the Council of defending the Gateway Avenue appeal would be approximately **£67,500** and for the Hawthorns and Keele Campus appeal approximately **£60,000**.
- 2.2 These estimates cover the cost of consultants to produce full statements of the cases and proofs of evidence; the costs and expenses of the attendance of witnesses at the Inquiries; and the fees and costs of the Council appointing barristers. It is anticipated that the majority of these costs will be defrayed in the current financial year.
- 2.3 There is also a possibility that the Council may be exposed to an award of costs against it if the Inspector finds that the Council has behaved unreasonably on one or more grounds of the appeals. Whilst it may be premature to make specific provision for any such costs award at this stage members should be aware that there is a risk of this arising and a further report to identify funding options would be brought to Council at that time.

## 3. **Options Considered**

- 3.1 The costs outlined in Section 2 - **£127,500** – significantly exceed the virement limit of £50,000 referred to in paragraph 1.3.
- 3.2 The current budget includes a provision of £15,500 to spend on external advice in respect of planning matters, primarily to cover appeal-related costs. This was reduced a number of years ago based on the fact that little or no expenditure of this nature has been incurred since the recent global recession.
- 3.3 There options for the Council to consider in respect of funding this budget gap are:
- 3.4 **General Fund Balance** – this exists to meet the cost of any unexpected adverse occurrences affecting the General Fund revenue budget. The balance as at 31 March, 2014 is £1.2m which is in line with the current reserves and balances strategy. If this were to be utilised it would have to be replenished as part of the 2015/16 budget process and would place further pressures on the Council’s revenue budget resulting in further savings having to be identified on top of the projected gap of £1.6m.

There could also be significant other pressures in 2014/15 relating to the following issues:

- Kidsgrove Sports Centre is continuing to operate at a significant net overspend primarily due to income shortfall.
- Commissioning a master-plan in relation to council-owned land at the former Keele Golf Course and environs.
- Changes that have recently taken place in respect of waste regarding how the Council is reimbursed for the costs of its street sweepings.
- Savings in respect of the 2014/15 budget that may not materialise.

- The continuing effects of the current economic conditions on sources of income;

All these matters are being closely monitored and members will be kept informed.

- 3.5 **Contingency Reserve Fund** – this is used to finance expenditure in respect of non-budgeted expenditure that may arise in the future. The balance as at 31 March 2014 is £291,000. A sum of £76,000 out of this is already committed to fund the production of the local plan as agreed by Council on 26 February 2014. A minimum amount of £100,000 has to be maintained in this reserve in accordance with the current reserves and balances strategy. Therefore, a balance of £115,000 is available.
- 3.6 **Budget Support Fund** – this was created by crediting to it surpluses arising on the General Fund Revenue Account. It is used to support the revenue budget and the “Invest to Save” initiatives. The balance as at 31 March 2014 is £333,000.
- 3.7 **Revenue Investment Fund** – this was set up as part of the 2013/14 budget process to fund projects in support of corporate priorities. The balance as at 31 March 2014 is £89,000 with an additional contribution of £100,000 being agreed by Council for 2014/15. Of this £189,000 commitments of £113,500 have been made. Therefore, an uncommitted balance of £75,500 is available.
- 3.8 **Identifying savings from other council budgets** – an exercise could be undertaken to ascertain whether any further savings can be found in the current year. This would almost inevitably have an adverse affect on service provision. Also, the savings currently being worked on as part of the Newcastle 2020 exercise will be required to fund the projected budget gaps over the next few years.

#### 4. **Proposals**

- 4.1 It is proposed to allocate funding from the following sources as follows:

	£
Current budget provision	15,500
Revenue Investment Fund	75,500
Budget Support Fund	<u>36,500</u>
	<b><u>127,500</u></b>

To meet the costs and expenses of the appeals.

- 4.2 This would leave the following uncommitted balances on the various funds:

	£
Revenue Investment Fund	-
Contingency Reserve Fund	215,000
Budget Support Fund	257,500

#### 5. **Reasons for Preferred Solution**

- 5.1 These are the proposals that have the least impact in the short term on the General Fund Revenue budget and current service provision.

#### 6. **Outcomes Linked to Sustainable Community Strategy and Corporate Priorities**

- 6.1 The Council’s budget impacts on all the Council’s corporate priorities.

7. **Legal and Statutory Implications**

- 7.1 The Executive Director (Resources and Support Services) as the Council's Section 151 Officer has the responsibilities for keeping under review the financial affairs and administration of the Council.
- 7.2 In respect of the budget, the Section 151 Officer has to be of the opinion that it is robust and that the Council's Revenue Reserves are adequate to support it.

8. **Equality Impact Assessment**

Not applicable.

9. **Financial and Resource Implications**

- 9.1 This additional expenditure puts further pressure on the Council's finances. The budget report approved by full Council on 26 February 2014 stressed the challenges that lay ahead for the Council to meet budget gaps of approximately £5m over the next few years. Any further appeals of this scale and nature would severely stretch the Council's limited resources.
- 9.2 In addition to the direct costs identified as part of this report, the appeals will mean a significant amount of additional officer time being spent, in particular from officers within the planning, legal and democratic services sections.

10. **Major Risks**

- 10.1 That the estimated costs are exceeded.
- 10.2 That the Inspectors in either or both of these appeals decide to award costs against the Council in addition to the costs cited above.
- 10.3 That further appeals of this scale and nature are made against future decisions taken by the Planning Committee.
- 10.4 That other in-year pressures on the General Fund materialise.

11. **Earlier Cabinet/Committee Resolutions**

Revenues and Capital Budgets and Council Tax 2014/15 – approved by Council on 26 February 2014.

Application for Major Development – Land off Gateway Avenue, Baldwins Gate – Planning Committee 18 February 2014 and 3 April 2014.

Application for Major Development – The Hawthorns, Keele – Planning Committee 19 November 2013 and 10 December 2013.