

URGENT DECISION RECORD

Name and Title of Officer: Helen Mitchell Director of Corporate and Customer Services		Service: Corporate and Customer Services	
Delegated Power Being Exercised: Urgent Decision to approve a supplementary revenue budget in 2023/24 for additional expenditure of up to £100,000 in respect of a planning appeal, to be financed from the General Reserve, in accordance with the decision of the Community and Environment Committee on 6 March 2024.			
Subject of Decision:	Approval of a supplementary revenue budget in 2023/24 for additional expenditure of up to £100,000 in respect of a planning appeal, to be financed from the General Reserve, in accordance with the decision of the Community and Environment Committee on 6 March 2024. The appeal has arisen as a result of Planning Committee refusing an application for planning permission, contrary to officer recommendation.	Ref.	CCS/24/03
Decision Taken (specify precise details):	To approve a supplementary revenue budget in 2023/24 for additional expenditure of up to £100,000 in respect of a planning appeal, to be financed from the General Reserve, in accordance with the decision of the Community and Environment Committee on 6 March 2024.		
Consultation	(1) Community and Environment Committee 6 March 2024 – resolved to seek an Urgent Decision to approve a supplementary revenue budget in 2023/24 for additional expenditure of up to £100,000 in respect of a planning appeal, to be financed from the General Reserve; and to defend the appeal (fronted up by Councillor Peter Dobbs) by appointing expert drainage and highways witnesses, along with Legal Counsel, with planning support from the Interim Development Manager.		

- (2) Decisions with budgetary implications require the consent of the Director of Resources. Her email dated 11 March 2024 signifying consent is attached.
- (3) An in-person meeting was held on 13 March 2024 in Matlock Town Hall attended by Cllr Steve Flitter (Leader of the Council), Councillor Peter Dobbs, the Chief Executive (Paul Wilson), the Monitoring Officer (Helen Mitchell), the Director of Regulatory Services (Tim Braund), the Director of Regeneration and Policy (Steve Capes) and the Interim Development Manager (Shaun Robson). The Legal Services Manager (Kerry France) attended remotely via MS Teams. At that meeting, it was agreed that the highways and drainage reasons for refusal SHOULD be defended and that expert technical support from Amey should be sought (it having been noted that other consultants had already declined to provide technical support on the highways and drainage reasons). It was further agreed that refusal reasons 4 (housing mix) and 6 (biodiversity net gain) should NOT be defended at appeal; but Members were clear that all other reasons for refusal should be defended, and that (with the exception of Amey's hoped-for support on highways and drainage matters) these other issues would be defended by Members. The meeting heard from the Interim Development Manager that, on this basis, together with legal and other planning advice, £100,000 remained the best estimate of the Council's own costs for defending the appeal, but that these could rise to closer to £150,000. It was made clear by the Interim Development Manager that, should appellants succeed in an award of costs against the Council, the combined financial consequence to the Council might at worst be in excess of £300,000.
- (4) The constitution requires affected Ward Members to be given notification of urgent business decisions to be taken and the method of determination. Due to the scale of this decision and member interest, notification was sent to ALL Members of the Council (including but not restricted to Ward Members in Ashbourne) by the Monitoring Officer on 15 March 2024.
- (5) The decision is, in accordance with the constitution, jointly authorised by the Chief Executive, the Leader of the Council (or, in his/her absence, the Deputy Leader) and the Chair of the Council (or, in his/her

	<p>absence, the Vice-Chair of the Council). Their emails signifying authorisation are attached.</p> <p>(6) Following confirmation that Amey would support defence of highways and drainage reasons for refusal, the Inspector asked at a Case Management Conference on 26 March 2024 that the Council provide a planner to represent the Council at the inquiry. On 2 April, Marrons agreed to provide this role.</p> <p>(7) Subsequently (27 March 2024) Cllr Peter O'Brien asked not to defend design reason for refusal alone, and that professional consultancy support be given in preparing his detailed proof of evidence. On 5 April, Arup agreed to provide this support.</p> <p>(8) This notice has regard to the dynamic nature of this inquiry, and the ability of the Inspector and other parties to make changes at short notice.</p>		
<p>Budget implications. State value of decision and budget used. Decision to be taken without budgetary provision will need the consent of the Director and Director of Resources</p>	<p>Value £100,000</p>	<p>Budget Head General Reserve</p>	
	<p>Within budgetary provision? No</p>	<p>If no. Identify budget head General Reserve</p>	<p>Approved by: Karen Henriksen Director of Resources</p>
<p>Reasons for the Decision (specify all reasons for taking the decision including where necessary reference to Council policy, Contract Standing Orders, Financial Regulations)</p>	<p>An appeal has been lodged against the refusal of planning permission for a residential development of 87no. dwellinghouses with associated landscaping, infrastructure and access at Lot 2, Leys Farm, Wyaston Road, Ashbourne (application 22/01339/FUL). The Planning Inspectorate will hold the appeal by Public Inquiry in May 2024.</p> <p>Refusal by Planning Committee was contrary to officer recommendation.</p> <p>The District Council does not make planned budgetary provision for appeal costs arising from planning decisions. Therefore, authority must be sought for a supplementary revenue budget for this unforeseen expenditure, with financing from the General Reserve.</p>		

	<p>Because of the Planning Inspectorate’s deadlines, there is a need to have properly procured and appointed expert witnesses and Counsel by 21 March.</p> <p>Therefore, C&E Committee approved seeking an Urgent Decision to seek the budget in order to procure expert witnesses and Counsel ahead of the next Council meeting on 4 April.</p>
<p>Alternative Options Considered (if appropriate)</p>	<p>The Leadership wish to defend this appeal robustly, and therefore option of not defending the appeal is rejected. C&E Committee approved seeking an Urgent Decision to seek the budget in order to procure expert witnesses and Counsel.</p>
<p>List all background/reports/information considered and attached (Legal, Personnel, Financial Implications etc)</p> <p>As set out in report to Community and Environment Committee 6 March 2024 (attached).</p> <p>There is no budgetary provision for appeal costs arising from the District Council’s planning decisions. This Decision therefore approves a supplementary revenue budget of £100,000 in 2023/24 for this expenditure. Any unspent balance at 31st March 2024 will be carried forward to 2024/25 through a reserve. This expenditure will be financed from the General Reserve, which currently has an estimated uncommitted balance of £3,122,060. The Council’s Medium-Term Financial Strategy permits the use of the General Reserve for meeting ‘one-off’ expenditure.</p> <p>It should be noted that, should the Council lose this planning appeal, there is a risk that the planning inspector could determine that the Council must meet the appellant’s costs, which would be significant. Should this be the case, approval would need to be sought for a further supplementary budget. This point was clearly made by officers to those Members present at the in-person meeting on 13 March 2024.</p> <p>This Decision is necessary due to the urgency to prepare for a Public Inquiry within the timescales required by the Planning Inspectorate (following the urgent business provisions at Part 3 of the Constitution).</p>	
<p>Decision:</p>	<p>To approve a supplementary revenue budget in 2023/24 for additional expenditure of up to £100,000 in respect of a planning appeal, to be financed from the General Reserve, in accordance with the decision of the Community and Environment Committee on 6 March 2024.</p>
<p>Signature and Date:</p> <p>Helen Mitchell, Director of Corporate and Customer Services</p> <p>21 March 2024</p>	