



Council 8 November 2017

Update on Judicial Review

Purpose of report

This report presents to councillors the latest information in relation to the Judicial Review of the Council's decision to grant planning permission for application 16/02119/FUL - Land end of Scalley Way, Raunds, Northamptonshire, otherwise known as Warth Park Extension. A further verbal update will be given at the meeting by officers.

Appendix

Appendix A – Initial Decision

1.0 Background

- 1.1 As councillors will be aware, Planning Management Committee approved application 16/02119/FUL at its meeting in March 2017. Subsequent to that decision, a request for the Secretary of State to call in the application was declined. An application for permission to apply for Judicial Review of the decision was made in June 2017.
- 1.2 Judicial Review is a two stage process. First the claimant must obtain permission to apply for judicial review from the Court. If permission is granted by the Court then the second stage is the substantive claim.

2.0 Latest Information

- 2.1 The first stage of an application to apply for Judicial Review is carried out via written representations. The outcome of that stage was that Court refused permission. That decision (by Holgate J dated 10 September) can be viewed at Appendix A.
- 2.2 Where the court refuse permission to apply for judicial review there is provision within the process for further representation to be made at an oral hearing. The claimant has asked for an oral hearing on the grounds that:
- *The Council was misdirected regarding the weight it could give to policy R6 of the Draft RNP. The officers report was wrong to state that it is highly likely that the area of land marked as protected open space under that policy would not be included in the final adopted plan. That statement was premised upon erroneous advice from counsel.*
 - *The weight the Council attributed to policy R6 of the Draft RNP was a matter of planning judgment for the Council. It cannot be said that it was highly likely that the outcome would have been the same had greater weight been given to that policy.*
- 2.3 This oral Hearing is scheduled to be held on 31st October. The decision refusing or granting permission is usually announced at the conclusion of the hearing, accordingly an update will be provided at the meeting.

3.0 Equality and diversity issues

3.1 There are no known negative equality and diversity issues arising from this paper.

4.0 Legal implications

4.1 There are no known legal implications arising from the changes proposed in this report.

5.0 Risk management

5.1 There are no known new risks arising from the information contained in this report.

6.0 Resource and Financial implications

6.1 It is estimated that the council has spent over £13,000 on legal advice to the point of the initial court decision. Further costs will have been incurred to prepare for, and attend, the oral hearing. An update on estimated costs to date will be given at the meeting.

6.2 Crowd funding (donation via the internet) was sought by campaigners to support the Judicial Review application. The claimant has also sought legal aid. The application for legal aid has been declined although it is currently subject to review. As can be seen from Appendix A, at this stage it is unclear what expenditure, if any, can be recovered from the applicant should the application fail at Oral Hearing stage.

6.3 Although the council will continue to look for opportunities to recover costs if the application for Judicial Review is refused or sustained, it is probable that the majority, if not all, of the costs incurred by this council will have to be funded from the Planning Appeals Inquiry budget.

7.0 Constitutional Implications

7.1 There are no proposed changes to the Constitution as a result of this report.

8.0 Customer Service Implications

8.1 There are no specific customer services implications arising from this report.

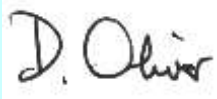
9.0 Corporate outcomes

9.1 The work reported here contributes to the corporate outcome of Effective Management

10.0 Recommendation

10.1 The Council is asked to note this report and any verbal updates given at the meeting.

(Reason: To ensure Councillors are aware of recent developments and potential financial risks in relation to this decision)

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| Legal | Power: Localism Act 2011 | | | | |
| | Other considerations: | | | | |
| Background Papers: | | | | | |
| Person | Originating | Sharn Matthews, Monitoring Officer, ☎ 01832 742108, ✉ smatthews@east-northamptonshire.gov.uk | | | |
| Date: 24/10/17 | | | | | |
| CFO | | MO | | CX 26/10/17 |  |

