

FINANCE, POLICY & GENERAL PURPOSES COMMITTEE	18 JUNE 2020	AGENDA ITEM: 12
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Report prepared by Angela Price – Town Clerk

COSTS ASSOCIATED WITH THE VIADUCT INQUIRY

Purpose of Report

The purpose of this report is to provide members of the Finance, Policy & General Purposes Committee with an update on the costs associated with the Viaduct Inquiry, to date.

Detailed Information

At a meeting of Council held on 5 March 2020 it was resolved ***“That the Council set a budget of £30k as an indicative budget for the defence of the appeal with the possibility of another £10k on professional services that may be associated with the Traffic Study.”*** (Minute C205(4) refers).

Since that meeting the Viaduct Working Party have undertaken a mammoth task to prepare the Statement of Case, Statement of Common Grounds and Proofs of Evidence, as part of the requirements as a Rule 6 applicant. To assist the Working Party with the work the Council have been engaged three traffic consultants and a landscape consultant, who have provided a wealth of experience and knowledge to help with the Council’s case, along with a Solicitor and a Barrister to act on the Council’s behalf at the Inquiry and provide support on the preparation of all the documents.

As a consequence of the work undertaken by the Town Council, with the assistance and support of the local MP, Mr Bill Wiggin, the Council were notified that this Inquiry had been “called-in” and advised that the final decision would be made at the highest possible level of elected representation, the Secretary of State. The Council would like to record their thanks to Mr Wiggin MP for the work he has put in to support the case Ledbury Town Council are making in respect of the housing development, to make the very best use of the investment already made in our local road infrastructure.

Financial Implications

The following table provides details of anticipated costs regarding work already carried out in respect of the Statement of Case, Statement of Common Grounds and the Proofs of Evidence and the anticipated costs of the Inquiry as of 10 June 2020.

NAME	RATE	Hours	Total to date
Malcolm Rees (DF Legal)	£250 per hour	Anticipated 8 hrs	£2,000
A. Parkinson (Barrister) - 2x conference calls			£1,500
Preparation of Statement of Case			£2,000
Preparation of Statement of Common Ground			£1,500
Proof of Evidence			£2,000
Telephone conference calls x 2			£1,500
M. Llywelyn-Jones	£450 per day - £56.25 p/h	as at 24.04.2020 - 55 hours	£3,094
	£56.25 p/h	24 hours - as at 11.05.2020	£1,350
	£56.20 p/h	19 hours as at 31.05.2020	£1,069
G. Lee	stage one		£1,750
	Stage two – includes attendance at Inquiry		£8,500
N Bradshaw	Total cost includes preparation of documents, plus attendance at Inquiry		£12,000
C. Tinkler	Costs as at 05.06.2020		£8,775
TOTAL			£47,038

The above figure in respect of G Lee and N Bradshaw includes the cost of their participation as witnesses at the Inquiry, and therefore whilst the total figure shown exceeds the £40,000 agreed previously, the actual costs incurred to-date is currently less than that shown.

Further anticipated costs

NAME	RATE	Hours	Total to date
C Tinkler – preparation for and attendance at Inquiry			£6,950
A. Parkinson (Barrister) – Refreshers			£2,500
Attendance at Inquiry			£15,000
TOTAL			£24,450

As stated above the Council, at its meeting on 5 March 2020 proposed to set aside a total of £40,000 towards the cost of the Inquiry. However, taking into account the cost of witness preparing for and appearing at the Inquiry, the anticipated costs exceed this by £31,488 . Therefore, the Finance, Policy & General Policy Committee need to consider increasing the threshold for the costs in respect of the Inquiry and any other potential costs of preparation for the Inquiry.

The increase in costs outlined have been increased by the need for the witnesses to prepare individual Proofs of Evidence as a result of restrictions placed on meetings with regard social distancing rules following the Coronavirus outbreak, to accommodate the proposed format of the online inquiry.

To mitigate the costs as listed above, Ledbury Town Council will need to consider whether they should apply to the Planning Inspector to seek to recover costs from Herefordshire Council, on the grounds of their unreasonable behaviour in classing the planning appeal as a legal action and choosing not to defend the decision of their own planning Committee.

Recommendation

Members of the Finance, Policy & General Purposes Committee are requested to give consideration to the above and consider the following:-

1. That a letter be sent to Mr Wiggin MP, thanking him for his assistance and support in this matter.
2. That the threshold for the costs in respect of the Inquiry be increased from the previously agreed £40,000 to take into account the costs as listed above, and that any increase make allowance for an additional contingency for any preparatory works in relation to the Inquiry.
3. That Ledbury Town Council apply to the Planning Inspector to seek costs from Herefordshire Council, on the grounds of their unreasonable behaviour in classing the planning appeal as a legal action and choosing not to defend the decision of their own planning committee.