

TOWN AND COUNTRY PLANNING ACT 1990

Appeal by C.C. Projects

Site: Land South of Hey Beck Lane, Chidswell, Dewsbury

Local Planning Authority Reference: 2020/60/92350/E

Planning Inspectorate Reference: APP/6013428

LOCAL PLANNING AUTHORITY'S RESPONSE TO THE APPELLANT'S APPLICATION FOR A PARTIAL AWARD OF COSTS

1.0 Introduction

- 1.1 This statement is submitted on behalf of Kirklees Council (the Local Planning Authority, hereinafter "the Council") in response to the Appellant's application for a partial award of costs submitted alongside the above appeal.
- 1.2 The Appellant claims that the Council acted unreasonably by declining to disclose the detailed information supporting the Council's housing land supply position, thereby requiring the Appellant to prepare its own housing land supply evidence.
- 1.3 The Council rejects that claim.
- 1.4 The Council's decision was reached following careful consideration by officers, including consultation with the Council's Planning Policy team, and having regard to the commercially sensitive nature of the information requested. The reasons underpinning that decision were explained to the Appellant during the course of correspondence.
- 1.5 The Council further considers that the Appellant has failed to demonstrate that any alleged unreasonable behaviour directly resulted in unnecessary or wasted expense, as required by the Planning Practice Guidance ("PPG").

2.0 Planning Practice Guidance – Awards of Costs

- 2.1 The PPG makes clear that parties to planning appeals are normally expected to meet their own expenses.
- 2.2 An award of costs will only be made where a party has behaved unreasonably and that unreasonable behaviour has directly caused another party to incur unnecessary or wasted expense.
- 2.3 Accordingly, the Appellant must demonstrate both:
 - that the Council behaved unreasonably; and
 - that such behaviour directly resulted in unnecessary or wasted expense.

2.4 The Council's position is that neither element of the test has been satisfied.

3.0 The Appellant's Allegation

3.1 The Appellant's application does not challenge the Council's assessment or determination of the planning application as being unreasonable itself.

3.2 Rather, this costs application is confined to the allegation that the Council acted unreasonably by declining to disclose the detailed information underpinning its housing land supply position and that this resulted in unnecessary expenditure in preparing housing land supply evidence.

4.0 Council Response

4.1 The Council has acted reasonably at all times in its dealings with the Appellant.

4.2 The Council did not refuse to disclose its housing land supply position. Throughout the pre-appeal process the Council made clear that it considered it could demonstrate a 4.18-year housing land supply. The issue in dispute related solely to the detailed site-specific information and assumptions sustaining that position.

4.3 Following the Appellant's request for that information, the Council considered the request in consultation with officers within the Planning Policy team before reaching its decision.

4.4 By email dated 15 May 2026, the Council explained that Planning Policy officers had advised that the requested information would not be released because it contained commercially sensitive details regarding specific sites. It should be noted that the requested information has been requested separately, by third parties, under the Freedom of Information Act: the Council remains of the view that such information is confidential¹ and has not been shared with any external party to date. The grounds for this confidentiality are detailed in section 5 of this rebuttal.

4.5 Following further correspondence from the Appellant, the matter was reconsidered. By email dated 22 May 2026, the Council maintained its position, having regard to the recent appeal at a site in Stocksmoor (LPA ref: 2024/91242, PIN's ref: 3375000) where the Inspector did not raise a concern about the Council not disclosing detailed information underpinning its housing land supply position. It should be enough for the parties to agree (as common ground) that Kirklees does not have a 5-year supply. The Council also explained that disclosure through redaction or anonymisation was not considered appropriate because identifying the sites would itself disclose commercially sensitive information – any adequate information for each site would unavoidably identify it.

¹ Regulation 12(5)(f) of the Environmental Information Regulations 2004 and Section 43 of the Freedom of Information Act 2000.

4.6 This demonstrates that the Council did not dismiss the Appellant's request without due regard and consideration. Rather, the request was actively considered, discussed internally with Planning Policy officers, and then reconsidered following further representations followed by a response that included the Council's reasoning.

4.7 The Council therefore contend that they acted reasonably throughout the process.

5.0 Commercial sensitivity

5.1 The Council's decision was based upon the commercially sensitive nature of the requested information.

5.2 The Council's Planning Policy team advised that release of the requested information into the public domain could adversely affect the interests of landowners who had provided information to the Council regarding the potential future development of their land.

5.3 Officers further advised that disclosure could adversely affect existing or future arrangements relating to that land, including current or future lease arrangements, and that these considerations applied equally to land within the Council's ownership.

5.4 The Council also considered that publication of potential development sites, prior to proposals being finalised, could cause unnecessary uncertainty and unwarranted concern for local residents and users of the land, including existing tenants.

5.5 In reaching its decision, the Council relied upon the relevant provisions of the Environmental Information Regulations and the Freedom of Information Act relating to commercially confidential information. This demonstrates that the Council's decision was reached through a recognised legal framework and for identified commercial reasons.

5.6 The Council therefore maintains that its decision represented a reasoned judgement rather than unreasonable behaviour.

5.7 The Appellant has failed to demonstrate that the preparation of its housing land supply evidence represented unnecessary or wasted expense.

5.8 Housing land supply is a technical planning matter frequently disputed within planning appeals. Where such matters are in dispute, it is common practice for parties to prepare and rely upon their own professional planning evidence.

5.9 Whilst not forming a reason for refusal of the planning application, the Appellant chose to challenge the Council's housing land supply position as part of its appeal case. As part of this, the Appellant prepared evidence in support of its own case. The Appellant was not compelled to do so by any action of the Council. The Appellant has not demonstrated that the preparation

of that evidence arose solely, or even principally, because the Council maintained the confidentiality of commercially sensitive information.

- 5.10 The Council further notes that its position regarding the absence of a five-year housing land supply was not disputed. Indeed, the Council sought to narrow the issues through the Statement of Common Ground by confirming that agreement could be reached on that point, notwithstanding its decision not to disclose the detailed site specific information.
- 5.11 The Appellant has therefore failed to establish the direct connection required by the PPG between the Council's conduct and the alleged unnecessary or wasted expense.

6.0 Weight attributed to the lack of a 5 year housing land supply

- 6.1 As has been established, the council's published position that the borough lacks a 5 year housing land supply is accepted between the Appellant and council. The Appellant's line of enquiry relates to how severe the shortfall may be and, presumably, whether a greater shortfall attracts greater weight on the planning balance.
- 6.2 Officers dispute the relevance of this. Nowhere does the National Planning Policy Framework (NPPF) seek to quantify or identify degrees of harm relating to a lack of a 5 year housing land supply. The simple absence of one, which again is not disputed, activates the provisions of Paragraph 11 of the NPPF.
- 6.3 Accordingly, officers do not consider the *extent* of the lack of a 5 year housing land supply to be a material consideration.

7.0 Conclusion

- 7.1 The Council acted reasonably throughout the process.
- 7.2 The Appellant's request for detailed housing land supply information was considered by the Council, discussed with Planning Policy officers, reconsidered following further correspondence and responded to with explanations.
- 7.3 The Council's decision was based upon identified commercial sensitivity considerations and was reached through an established legal framework.
- 7.4 The Council contends that the appropriate time to publish their housing land supply evidence is at the same time that we publish our draft local plan and the supporting evidence base. This will be done during the Regulation 19 "Publication" stage, ensuring that the public and developers can review and inspect the proposed sites at the same time".
- 7.5 The Appellant has failed to demonstrate either that the Council behaved unreasonably or that the Council's actions directly resulted in unnecessary or wasted expense.

7.6 Accordingly, the Council respectfully requests that the Appellant's application for a partial award of costs be dismissed.