

**From:** [Brown, Kerr](#)  
**To:** [Marc Hourigan](#)  
**Cc:** [Claire Campbell](#); [Niall Mellan](#); [Alex Round](#); [Nicola de Bruin](#); "Bruce O'Brien"; "Pete Shimwell (Corporate Services and Transformation)"; [David Roberts](#); [Craig Thomson](#)  
**Subject:** RE: APP/H1033/W/24/3339815: Land at Dinting Vale, Dinting, Glossop, Derbyshire, SK13 6PA  
**Date:** 24 May 2024 11:40:44  
**Attachments:**

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Dear Marc, et al

The Inspector has reviewed the correspondence from both the Council and the appellant regarding the seemingly emerging disagreement with respect to a contribution for the creation of an off-site pedestrian and cycle link that would link the site to the Trans Pennine Trail. It is also noted that given that the deadline for the submission of proofs has now passed that it would not have been addressed as a matter of dispute to date. As such, I invite the Council to formally submit their case in writing on the matter by not later than 5pm on Friday 31 May 2024 (including a proof of evidence should an additional witness be intended to be called, or alternatively a supplementary proof of evidence should the matter be intended to be addressed by the Council's existing witness Mr O'Brien). The appellant will then be afforded an opportunity to respond specifically to that case in writing by not later than 5pm on Friday 7 June 2024 (including a proof of evidence should an additional witness be intended to be called, or alternatively a supplementary proof of evidence should the matter be intended to be addressed by an existing witness). To accommodate this process and ensure that any implications for the final draft planning obligation, CIL Compliance Statement, the final version of statement of common ground, final timings for witnesses and the suggested list of conditions can be suitably addressed/taken into account as required, I necessarily extend the deadline for submission of those documents to 5pm on Wednesday 12 June 2024. The draft Inquiry programme to be prepared and circulated after that date will include any necessary time to address the matter, including formal presentation of evidence and cross-examination should it be necessary.

As per my previous correspondence on 15 April 2024 and discussions at the CMC, accordance with the timetable is important for appeals to proceed quickly and fairly. In the event, that a party behaves unreasonably, and this has directly caused another party to incur unnecessary or wasted expense in the appeal process, they may be subject to an award of costs. Details of what typically constitutes unreasonable behaviour and unnecessary or wasted expense is set out in the Appeals chapter of Government's Planning Practice Guidance.

The Inspector in suggesting the action to be taken regarding the Inquiry timetable and directing the parties to the information on participant behaviour should not be interpreted as inviting a costs application at this stage. It is rather a reminder to the parties of their responsibilities in the appeal process and to encourage the parties to continue to co-operate and collaborate over matters in dispute to refine them if possible. The Inspector response is also given without prejudice to any necessary consideration of a costs application(s) should there be such a submission made in writing by either party in advance of or at the Inquiry, or should he consider it necessary to utilise his own jurisdiction to make such an award after the Inquiry has closed.

For certainty, the updated deadlines suggested by the Inspector for the submission of information should be acknowledged on the Inquiry website.

Kind regards

Kerr

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**From:** Marc Hourigan <Marc.Hourigan@houriganplanning.com>  
**Sent:** Friday, May 24, 2024 9:41 AM  
**To:** Brown, Kerr <KERR.BROWN@planninginspectorate.gov.uk>  
**Cc:** Claire Campbell <Claire.Campbell@wainhomes.co.uk>; Niall Mellan <Niall.Mellan@houriganplanning.com>; Alex Round <Alex.Round@Mills-Reeve.com>; Nicola de Bruin

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**Subject:** APP/H1033/W/24/3339815: Land at Dinting Vale, Dinting, Glossop, Derbyshire, SK13 6PA  
**Importance:** High

Dear Kerr

I refer to the above matter.

A new issue has arisen in this appeal which I have been instructed to bring to the attention of the Inspector, this is as follows.

The Inspector will be aware that during the application process Derbyshire County Council sought a contribution for the creation of an off-site pedestrian and cycle link that would link the site to the Trans Pennine Trail. In the appeal submission the Appellant committed to pay for that facility in full in the terms that had been put forward by DCC in the application process and that had been but to Members of the LPA's Development Control Committee. The Appellant proceeded with the appeal on the basis that this matter was dealt with as it would be covered in the Section 106 Agreement.

The Appellant has now received correspondence from the LPA following their discussions with DCC and this is attached for the Inspector's attention. Having sought advice on this matter I am instructed as follows:

- We had agreed a position with the LPA and HA as to the provision of the cycle/pedestrian route and standard.
- Indeed, the provision had been costed and agreed.
- We have now received correspondence from the HA that they wish to resile from the agreement.
- This has been introduced by the HA after the exchange of evidence.
- The LPA/HA are now appearing to raise the issue on the basis that there is non-compliance with Policy CF6.
- This is a "new" matter and the HA have not produced evidence for the Inquiry and for all too obvious reasons the Appellant has not addressed the issue.
- We would invite the Inspector to consider the matter.
- The Appellant's initial view is that this conduct whilst manifestly unreasonable should not necessitate an adjournment to deal with the matter and the broad Inquiry timetable should be kept to.
- That in order to deal with the issue fairly and properly the LPA/HA should provide on a date to be decided by the Inspector (although we would suggest the 31 May 2024 is reasonable) their case in writing on this issue and without prejudice to the generality of the foregoing the justification for their changed position(s).
- That provision be made for the Appellant to provide a written response.
- That a specific time be allotted in the Inquiry programme to address this issue – for the avoidance of doubt the Appellant would request this be part of the formal part of the Inquiry and therefore the opportunity to cross examine should be available.

If I can be of any further assistance at this time, please do not hesitate to contact me. In the meantime, I look forward to hearing from the Inspector, via yourself about this matter.

I have copied this email to both the LPA and DCC.

Regards

**Marc Hourigan** BA (Hons) BPI MRTPI

Managing Director



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