

**TO EACH MEMBER OF THE
COUNCIL**

20 October 2021

Dear Councillor

COUNCIL - WEDNESDAY 20 OCTOBER 2021

Further to the Agenda and papers for the above meeting, please find attached Member questions submitted in accordance with Council Procedure Rule 13.

The questions and answers will be taken as read without discussion but the questioners will be allowed to ask a supplementary question arising directly from the questions or from the replies.

Should you have any queries regarding the above please contact Democratic Services on
Tel: 01684 272021

Yours sincerely

**Lin O'Brien
Head of Democratic Services**

Member questions submitted in accordance with Council Procedure Rule 13

The following questions have been received from Councillor Paul Ockelton to the Leader of the Council. The answer is given by the Leader of the Council, Councillor Rob Bird, but is taken as read without discussion.

With the decision from Mr Justice Dove on 18 October 2021. Would the Leader of the Council please inform Council:

Q1. As to the total cost to the Borough taxpayers of the Gotherington High Court appeal.

A1. The Secretary of State has been awarded their costs in the sum of £23,310 and the Council has incurred costs (excluding costs in respect of costs submissions to the Court which have yet to be calculated) of £37,564 which covers both costs of its Counsel and internal legal support.

Q2. In light of the Highnam appeal, given by the same Justice, Mr Justice Dove, would the Leader of the Council give his justification for this expenditure to the public purse.

A2. Though the Council had received permission to challenge the Highnam appeal decision, Mr Justice Dove had ultimately declined to make a substantive judgment as the planning appeal in respect of Highnam had been dismissed. Instead, he indicated that the Council's interpretation of planning policy on housing requirements and five-year housing land supply was a matter which could be properly considered in a subsequent appeal and that if, contrary to the Council's view, past over delivery was discounted and a decision adverse to a Council arose, then the Council would have at that stage the right to ask the Court to intervene. The Council felt that Gotherington was such a case and a matter important to this Council.

The following question has been received from Councillor Paul Ockelton to the Lead Member for Built Environment. The answer is given by the Lead Member for Built Environment, Councillor Mel Gore, but is taken as read without discussion.

Q3. Would the Lead Member for Built Environment, in light of Mr Justice Doves ruling please lay before Council the full implications of that ruling.

A3. The Council only received the judgment in respect of Gotherington on Monday and though Mr Justice Dove did not quash the Gotherington appeal decision itself, he made it clear, contrary to some who have said that past over supply must never be included in five year housing land supply calculations, that it would be a matter of judgment for the decision maker and that in at least most cases the question of oversupply will need to be considered in assessing housing needs and requirements.

Having clarification from the Court that past oversupply is a matter that will usually need to be considered, along with the two decisions from planning Inspectors following public inquiries much more recent than the Gotherington one, gives us a strong argument against those developers who are continuing to argue that we have a supply of two years or less.