

Keep It Green 2014

Newsletter 83# - 19/02/2019

Colleagues

Barnsley Local Plan Update

Newsletter 82 # dated 1 January 2019 updated you with Keep It Green 2014's continuing concerns, together with the implications of the Council's timetable to adopt the Barnsley Local Plan following the issue of the Planning Inspector's report to the Council on 14 December 2018.

The Planning Inspector's final report was made public by the Council on 20 December 2018.

The Council's cabinet meeting on 12 December 2018 had previously recommended to a special Council meeting on 3 January 2019 that the Local Plan should be formally adopted.

Subsequent to the Council meeting on 3 January 2019 the Council published a notice in the Barnsley Chronicle on 11 January 2019. The notice indicated that any person "*aggrieved by the Local Plan may make an application to the High Court.....*"

This effectively means that application can be made to the High Court for a Statutory Review of the Council's actions in preparing and adopting the Local Plan on the grounds that the Local Plan is not within the powers conferred by the relevant Act or Regulations and/or the procedural requirements thereof.

It should be noted that any application for Statutory Review must be made on the Council failing to fully act within the legal powers conferred upon it in adopting the Local Plan.

The application for Statutory Review cannot be made on the merits of that decision, or the policies contained within the Local Plan. It must be made on a point of law.

The timescale for such an application is six weeks from the formal adoption of the Local Plan on 3 January 2019.

The timescale expired therefore, on 15 February 2019.

Prior to this date Keep It Green 2014 subsequently took legal advice following the publication of the notice by the Council on 11 January 2019, since it is clearly a complex issue.

The conclusion reached was that whilst such action could be considered, the cost of such action and the risk of adverse costs being awarded in favour of the Council meant that a balanced judgment had to be taken based upon the advice received.

It was concluded that the cost risks involved meant that such action could not be taken.

Sadly this is against a background of five years detailed involvement in objecting to all that is wrong with the Local Plan as far as Site MU1 is concerned.

It is also one of the many sad consequences of the limited availability of cost protection and the resultant problem that potentially arguable claims are being abandoned at pre-action stage because the government seems determined to minimise legal scrutiny.

Prior to reaching this conclusion Keep It Green 2014 had also written on five occasions to James Brokenshire, the Secretary of State for Housing, Communities and Local Government expressing strong concerns about the Local Plan, commencing with a request in October 2018 asking him to consider issuing a

direction to the Council under Section 21(4) of the Planning and Compulsory Purchase Act 2004 prior to the adoption of the Local Plan.

In effect the direction would have put a stop on the Council adopting the Local Plan until it had been considered and approved by the Secretary of State.

The request was refused.

One interesting fact which came out in Keep It Green 2014's recent investigations was that Paragraph 6.3 of the Planning Inspectorate's "Procedural Practice in the examination of Local Plans" guidance note says "*...the examination of a plan is not an inquiry into objections...*".

If the object of the exercise is not an "*...an inquiry into objections...*", then the question needs to be asked why has the local community and all the other objectors spent so much time in challenging the contents of the Local Plan?

Subsequent letters have been sent to the Secretary of State expressing further concerns about different elements of the Local Plan, including the timing of the Planning Inspector's report and the fast tracking of this through the Council's approval procedures culminating with the special Council meeting on 3 January 2019.

These letters have not met with any success or change in the Secretary of State's decision, including his failure to respond to detailed questions from Keep It Green 2014.

The next stage in the procedures will be for the Council to commence consultation procedures on a Masterplan for Site MU1.

The timescale for this is not yet known, nor when planning applications will follow from this.

It is Keep It Green 2014's intention to continue to challenge the Council throughout these procedures and as a consequence are looking for your continued support in this task.

Why not post your views on the Keep It Green 2014's Facebook page

Keep It Green 2014 would also like to invite additional members to join the core group.

If you are interested, or know someone who is, and are willing to give up some of your personal time to assist and support Keep It Green 2014 please get in touch via the link shown below.

Once again, can we ask if you know of any friend, relative or neighbour who does not have access to the Internet then please print a copy of this newsletter and pass it on to them.

Keep It Green 2014

info@keepitgreen2014.co.uk

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