

KIRKLEES LOCAL PLAN EXAMINATION

SITE NUMBER : H297

MATTER NUMBER : 44

**HEARING STATEMENT OF SCHOLLS FUTURE
GROUP**

Changes we seek to the Plan

In our representations made to KMC we have proposed that H297, together with H597 and SL3359 should be designated as Local Green Space. We set out below our responses to the matters the Inspector raises as regards site H297.

General questions

- a) Suitability of site for proposed use / clarity of Plan guidance on requirements and constraints / identification in the Plan of appropriate mitigation measures**
- b) Appropriateness of site capacity taking account of constraints and necessary infrastructure**
- c) Site availability and deliverability**
- d) Green Belt issues**

Site specific questions

- i) Consideration of deliverability of site, including relocation of children's play area to facilitate access via H297**

The questions raised by the inspector as regards H297 are pointless. In August 2017 KMC granted Miller Homes permission to build 39 dwellings on this site, and construction work has already begun.

We do however ask the inspector to consider our comments below as we, and most other residents of Scholes, are scandalized by the way KMC has conducted itself with regard to this site.

In late 2015 we, and all residents of KMC, were invited to participate in the formulation of the new Local Plan.

In January 2016 we submitted an extensive response to KMC's draft of the new Local Plan put out for comment in November 2015, as regards what were then sites H8, H38, and SL2300. Our response was supported by a petition signed by 853 local residents (see page 4 of the "Publication and Submission of the Local Plan" report prepared for the Cabinet and Council meetings scheduled for 12 October 2016). In our response we sought a change to the draft Local Plan such that H38 should be designated as Local Green Space.

In December 2016 we made further extensive comments to KMC following publication of the DLP – and we expected to be able to engage with the inspector as regards H297 (as well as H597 and SL3359).

There is no doubt that the residents of Scholes have been heavily engaged in the process of developing the new Local Plan as it affects their village.

However, in 2017 Miller Homes submitted Planning Application 2017/90361.

We made extensive representations to KMC objecting to this application stressing in particular :

- The matter of the “legitimate expectation” as it applies to public bodies – and the fact that approval of the application would defeat the legitimate expectation Scholes residents had as regard being denied further participation in this exercise of participatory democracy. We would be disenfranchised.
- The signification of the Supreme Court decision given on 10 May 2017 in the related appeals of *Suffolk Coastal District Council v Hopkins Homes Ltd et al.*, and *Richborough Estates Partnership LLP et al., v Cheshire East Borough Council* [2017] UKSC 37 – which reasserts the primacy of the statute in planning decision-making, and confirms that NPPF is one “material consideration” in this context – no more and no less – amongst what may be many others.
- That footnote 10 (“unless material considerations indicate otherwise”) to the section of NPPF 14 dealing with “decision-taking” qualifies both the third and fourth bullet points of NPPF 14.
- That the text of the fourth bullet point in NPPF 14 itself prohibits the granting of planning permissions where, by reference to the generality of NPPF policies, the adverse consequences of granting permissions would significantly and demonstrably outweigh the benefits.
- That the application was premature in the context of the stage of the emerging Local Plan
- The judgment given by the Court of Appeal on 30 June 2017 in the appeal of *Barwood Strategic Land II LLP v (1) East Staffordshire Borough Council and (2) Secretary of State for Communities and Local Government*, [2017] EWCA Civ 893 – and the significance of paras 34

and 35 of that judgment. Our view is that this judgment and [2017] UKSC 37 reset the context in which NPPF, and in particular paras 14 and 49 are to be viewed.

- All the material considerations we had raised in our comments on the PDLP.

This was all to no avail. The relevant committee split 50:50 along political lines and the casting vote was made by the chair – an independent member for an adjacent constituency. Moreover, the committee decided that a large sum of money generated by the approval of the application, and agreed by the developer, for improvements to the children’s play area should instead be allocated to junction improvements at the A616/A635 road junction in New Mill, not in Scholes.

As regards H297, we feel that KMC has ridden rough-shod over our legitimate expectations as regards our participation in the process which the inspector is now bringing to a conclusion.

Whilst it would be pointless even to attempt to answer the questions raised as regards H297, we would ask the Programme Officer to ensure that our comments here are brought to the Inspector’s attention.