Residents Address

etc

Pauline Latham MP

The Old Station,

Station Road,

Spondon,

Derby DE21 7NE

XX September 2016

Dear Pauline,

**Re: Land at Kedleston Road, Allestree, Derby, Derbyshire DE5 3BY - Appeal Reference APP/M1005/W/15/3132791**

I write to you as my Member of Parliament to express my grave concern and outrage regarding the above appeal decision made by John L Gray, an Inspector appointed by the Secretary of State for Communities and Local Government (DCLG). His decision to allow the appeal is now likely to result in at least 400 hundred houses being built on a protected heritage setting. I understand that you are aware of the decision and have provided support to residents on this matter previously.

Mr Gray made his decision despite: there being approaching 2,000 objections lodged by local residents; the protection afforded to the land by Amber Valley District Council (AVBC) and it not being in their local plan; AVBC’s rejection of both applications presented by the developer based on heritage grounds; and the resident’s group, Kedleston Voice (KV), being represented at the inquiry on the basis of the community raising £40,000 to try to ensure the site continued to be protected.

Mr Gray’s decision and conduct at the Inquiry has raised many questions for residents and I feel that these should be raised with you. Specifically:

* The inspector appeared to have predetermined the outcome prior to hearing any evidence.
* The inspector made repeated interventions that were in favour of the appellant.
* KV’s representation was marginalised before and during the Inquiry.
* The inspector contradicted and usurped the heritage and landscape statutory consultees and respondents experts, despite their eminence.
* The inspector’s interpretation of setting is at odds with the statutory and expert opinion, guidance and case law.
* The inspector did not take into account relevant factors. For example, he failed to recognise or deal with the fact that the landscape including the appeal site was specifically designed by Robert Adam
* The inspector, due to his errors in judgement, incorrectly found that the appeal site is not within the setting of Kedleston Hall.
* The inspector failed to take account of or deal with the previous rulings.
* The inspector appears to find that the ‘current’ lack of 5-year supply overrides all local housing policy to justify his approval, which contradicts case law and other appeal decisions where heritage assets are a consideration.

Despite these major failings, residents are now being told that there is no appeal to this decision and that DCLG have no powers to overturn it. It also appears that DCLG do not carry out any quality control on the inspector’s decision and that he is able to create new case law at his own whim, despite the ramifications this may have on future heritage sites across the country.

I am led to believe that the only option available to AVBC and residents is to apply to the High Court for a judicial review of the inquiry decision. Due to the law as written, this will both be very risky and costly. Despite this, residents are considering this approach as they appear to be left with no other option.

**I write to ask, therefore, how one individual can be afforded so much power and is able to overturn the will of the people and the wishes of democratically elected representatives of the local community in this manner.** This is a clear sign that there are significant flaws in the current planning system which now seems so weighted in favour of the developer that even the most protected heritage sites are now likely to be developed on the basis of this incorrect ruling.

There is no doubt that the planning system in this country is now broken beyond repair, since the introduction of the National Planning Policy Framework by the last Government. My and other residents’ concerns are that:

* The urban-based councils are failing to release sufficient sites within their town and cities to meet proposed housing numbers. This leads to greater pressure on the greenfield and greenbelt sites surrounding the conurbations; this is the land that developers prefer for maximising their profits despite the sites often representing the most unsuitable locations regarding proximity to employment and services.
* The current lack of a 5-year housing supply, which all recognise is driven primarily by the effect of the 2008 recession, now allows developers to put a planning application in for any piece of land they choose. It does not matter whether it is in the local plan or not, or even whether it carries any protection. In all cases, the presumption must be that the planning application will be granted.
* To object to this planning application, residents, councils and statutory consultees are required to mount costly and time-consuming defences. The applicant, if they get their application rejected as in this case, can then continue to put further applications in at their will, adding further to the work load and cost of the respondents. Evidence from this case suggests that the statutory consultees and councils are failing to cope with the pressure of this and are now deciding not to object rather than risk the length and time-consuming legal process that can follow. This leaves much of the work of defending our most precious sites to the residents, if they can organise themselves fully and raise the funding to do so.
* The developers, where they know they are likely to be repeatedly rejected, are using the 12-week decision period to “time-out” overworked councils and take their decision to the Planning Inspectorate of DCLG to have the decision made, where they believe that they will get a more favourable hearing. This happened in this case.
* The right of appeal to any decision only sits with the developer. Residents and other parties are only left with the option of asking the Secretary of State to in call the application via a Member of Parliament before the appeal decision or going to the High Court. This provides insufficient safeguards to residents.
* The appeal process conducted by the Planning Inspectorate in DCLG is flawed as we have seen from this case, as it puts all the power of decision making in the hands of one person. There is no subsequent appeal process for the other parties and no quality control conducted on the decision before it is published.
* As I am sure that residents will see, if this development goes ahead, the local councils have limited appetite and resourcing to “police” the actual creation of a development. Whilst enforcement powers are available to them, previous examples show that AVBC are not willing to use these procedures due the legal challenges from the developers and associated costs that will result. The developer will be left to create the site almost as they wish with limited regard to the conditions placed on them to protect the residents.

**Again, I write to ask you how the Government that you are a member of can allow such a broken system to operate such that, as in this case, it is now allowing some of the most protected sites in this country to be built on.**

**I would ask you to raise these matters with relevant ministers and departments involved in developing and managing the NPPF and its application and ask them for answers as to how this is being allowed to happen. I would also ask you to press for immediate changes to the NPPF and its associated processes in order to stop this happening repeatedly in the future.**

Lastly, I would draw your attention to the recent Civitas report which demonstrates that councils have granted enough planning consents to meet the government’s target of building one million new homes by 2020 but that developers are failing to build them. Most people sense that the developers, with all their new powers, are controlling the market supply to optimise pricing. This is another report that says as much.

By continuing to allow developers to operate as they wish, with reducing constraints through the processes discussed in this letter, Government is just playing into their hands without addressing the real housing needs of the country. In doing so, Government is allowing protected heritage land to be lost for generations to come. This is shameful.

I look forward to hearing how you will take forward my concerns,

Kind regards

Yours sincerely

igh Court for a judicial review.