

Update for Kedleston Voice Supporters

Application for Statutory Review of the Planning Inspector's decision concerning land on the Kedleston estate

What application has been made?

After careful analysis, Peter Steer, a member of Kedleston Voice (KV) and with KV's support made an application in the Planning Court in London (a special branch of the Admin Court) for permission to challenge the inspector's decision under the provisions for Statutory Review (SR). At the same time Peter applied for a Protective Costs Order (PCO) to limit his exposure to unknown costs should his case not be successful.

The ground of this claim in broad outline is that the inspector unlawfully narrowed his consideration of setting to visual/physical connections between the site and Kedleston Hall alone (ground 1). A copy of the grounds, called the Statement of Facts and Grounds as lodged with the Planning Court on 3 October 2016 will be available to download from the KV website at www.kedlestonvoice.com, shortly.

Who are the main Defendants?

The first Defendant is the Secretary of State for the Department of Communities and Local Government (SS). Catesby Estates Ltd. are an interested party and are therefore included as a second Defendant. It is normal that the local authority, in this case Amber Valley Borough Council (AVBC) appear on the papers as the third Defendant.

How will the application be decided?

The application will first be decided 'on the papers', that is without a hearing. This decision may be made before the Christmas recess. The Planning Court will at the same time decide on the application for the PCO.

If permission for a SR is granted on the papers, the case will be listed for a two day 'substantive' hearing, likely to be during spring 2017 and certainly before the end of the summer term (i.e. before end of July 2017). This hearing will decide the case and if successful the court can quash the inspector's decision. Thereafter, the appeal application is remitted to the Planning Inspectorate (PINS) for redetermination and a new inquiry would be held with a different inspector and the correct interpretation of setting and weighting of harm will be applied.

Should permission for SR not be granted on the papers, the case can be renewed to what is known as an "Oral hearing on Permission". This means there will be a hearing held where our legal team will make representations in Court before a single planning judge. At this hearing the judge will decide whether to grant permission for the case to continue. The public can attend this hearing. It will be in the Planning Court in London unless the Court moves the case to a regional court.

What progress has been achieved in the application so far?

As is normal, the SS and Catesby lodged responses to the grounds for SR and as expected tried to portray the grounds as planning matters that were for the inspector alone to determine. Our legal team lodged a reply. This corrected the attempted misrepresentation

and emphasised that the grounds for SR are matters of law of national importance because they establish how policy and guidance protecting the setting of our National Heritage should be interpreted and that the inspector's interpretation of these was wrong and should therefore be independently scrutinised by the Courts. We secured a witness statement from Ms Louise Brennan, the Midlands planning director at Historic England, who has long been involved in this matter and her statement was included in the reply.

What are the next steps?

KV supporters have kindly donated sufficient funds to enable the first stage of this SR to be undertaken. Work to prepare for the substantive hearing will commence once we have a decision on permission. However, further fund raising must continue towards the next cumulative target of £20k if we are to progress the case after being granted permission and a PCO.

Should a PCO not be in place the target would be above £30k and this would then leave us with the difficult decision of whether to proceed. If we did not proceed with the SR then it would mean the inspector's decision would stand and likely result in an 'if you can't see it you can build it' planning policy.