



SAVE WIMBLEDON PARK LTD

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The long-anticipated hearing of SWP's Judicial Review, challenging the GLA's decision last September to grant planning permission for the AELTC development, took place in the High Court in London on 8 and 9 July. About 150 campaigners mounted a noisy but good-humoured demonstration outside the Royal Courts of Justice on the first day, which duly attracted considerable media attention. The start of the hearing was delayed by over an hour while overspill accommodation was found for the dozens of supporters wishing to follow the proceedings in person.

The hearing was before Mr Justice Saini. SWP was very capably represented by Sasha White KC, assisted by Luke Wilcox. Both the GLA and the AELTC were also represented. Supporters will recall that SWP were challenging the GLA's decision on three grounds. Firstly, that the GLA failed properly to take into account the implications of the statutory public recreation trust and the restrictive covenants, both of which prevent the development. Secondly, the GLA failed to recognise that golf course use was (in planning terms) "deliberate damage" of a heritage asset, so that rectification of such damage should not count as a benefit. Lastly, they failed to appreciate that the creation of a private entertainment complex (for just 3 weeks a year) would not provide "alternative sports and recreation" for the public, as required by planning policy.

The hearing lasted a day and a half, at the end of which the Judge stated that he wished to reserve judgment. His decision is expected by the end of July and will be circulated to supporters as soon as it is publicly available. At the conclusion of the hearing the Judge also considered a very late application by the GLA to lift the £10,000 "Aarhus" cap on SWP's liability for adverse costs. The GLA's grounds for applying were the "significant change in circumstances" of SWP resulting from our very successful crowdfunding campaign. The application was refused and the GLA were ordered to pay SWP's costs of dealing with it. In dismissing the application, the Judge said that it would be wrong in principle for a Claimant to be faced with the risk that the costs cap could be raised if it was successful in its fundraising. Further details of this unusual application are set out in the attached press release.

We are extremely grateful to our barristers, and to our Solicitors Russell-Cooke, for the expert way in which they have conducted SWP's case. We are grateful too to

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the many hundreds of people who have contributed so generously to our funding of this litigation, and to all those who accompanied us to the High Court this week.

Looking ahead, if SWP succeed on any or all of those three grounds, the planning permission will be quashed. The AELTC's planning application will then revert to the GLA for reconsideration in the light of the Court's decision. We would expect in those circumstances that permission would be refused and the AELTC will have to think again.

Whichever party loses the JR would be entitled to seek permission to appeal to the Court of Appeal on a point or points of law. An application for leave to appeal would have to be made within 21 days of the judgment. Obviously, the Judge's decision will require very careful review by all parties.

We still hope that, particularly if the AELTC to lose on the JR, rather than battling further through the law courts, they could be persuaded to talk to us, with a view to achieving a resolution of this four-year-old dispute.

Meanwhile, the separate statutory trust proceedings are progressing towards a hearing next January. Furthermore, whatever the outcome of these two court cases, the restrictive covenants remain firmly in place. Merton remain totally silent on the question of whether they intend to enforce the covenants, or not.

See <https://www.savewimbledonpark.org/> for more information about our campaign.

