



Ref: ENF:21/0034

IMPORTANT - THIS COMMUNICATION AFFECTS YOUR PROPERTY

TOWN & COUNTRY PLANNING ACT 1990 (as amended by the PLANNING & COMPENSATION ACT 1991)

ENFORCEMENT NOTICE

ISSUED BY: PEAK DISTRICT NATIONAL PARK AUTHORITY

1. **THIS IS A FORMAL NOTICE** which is issued by the Authority because it appears to it that there has been a breach of planning control under Section 171 A (1) (a) of the above Act, at the land described below. It considers that it is expedient to issue this Notice having regard to the provisions of the development plan and to other material planning considerations. The Annex at the end of the Notice and the enclosures to which it refers contain important additional information.

2. **THE LAND TO WHICH THE NOTICE RELATES**

Land at Thornbridge Hall, Baslow Road, Ashford-in-the-Water DE45 1NZ as shown edged red on the attached plan drawing no. ENF21-0034(1) ("the Land")

3. **THE MATTERS WHICH APPEAR TO CONSTITUTE THE BREACH OF PLANNING CONTROL**
 - (i) Without planning permission, the carrying out of operational development, consisting of the construction of a driveway (including the formation of adjacent soil bunds), the approximate location of which is shown cross-hatched black and denoted as 'Driveway A' on the attached plan (drawing no. ENF21-0034(1)); and

 - (ii) Without planning permission, the carrying out of operational development, consisting of the construction of a driveway, the approximate location of which is shown hatched black and denoted as 'Driveway B' on the attached plan (drawing no. ENF21-0034(2)); and

 - (iii) Without planning permission, the carrying out of operational development, consisting of the construction of a car park (including the formation of adjacent soil bunds), the approximate location of which is shown hatched black and denoted as 'Car Park' on the attached plans (drawing nos. ENF21-0034(1) and ENF21-0034(2)); and

 - (iv) Without planning permission, the carrying out of operational development, consisting of the laying of hardsurfacing, the approximate location of which is shown shaded grey and denoted as 'Hardsurfacing' on the attached plan (drawing no. ENF21-0034(2)); and

 - (v) Without planning permission, the carrying out of operational development, consisting of the construction of a building, the approximate location of which is shown cross-hatched black and denoted as 'Building' on the attached plan (drawing no. ENF21-0034(2)); and

 - (vi) Without planning permission, the carrying out of operational development, consisting of the erection of fences, including gateways and stiles, the approximate location of which are shown as a solid green line on the attached plans (drawing nos. ENF21-0034(1) and ENF21-0034(2)).

4. REASONS FOR ISSUING THIS NOTICE

- a) The breaches of planning control have occurred within the last 4 years. This Notice seeks to remedy the breaches of planning control.
- b) The gardens and parkland are included on Historic England's Register of Historic Parks and Gardens in recognition of their special interest. The character of the formal gardens and the wider landscaped parkland has been substantially harmed by the unauthorised developments, which take no account of the boundaries between these two distinct zones. The developments are thus in conflict with the relevant government guidance and planning policies, notably paragraphs 83, 127, 170, 172, 184 and 193 – 199 of the NPPF; Core Strategy policies GSP1, GSP2, GSP3, L1, L3, RT1, E2 and T3; and Development Management policies DMC1, DMC3, DMC5, DMC9, DME7 and DMT3.
- c) The unauthorised developments are situated within the Thornbridge Conservation Area. In the Conservation Area appraisal the parkland is noted as 'important open space' which should be protected from development. The appraisal also annotates 'wide views' across much of the parkland from a number of vantage points. The unauthorised developments have caused substantial harm to the character and appearance of the Conservation Area and are thus in conflict with the relevant government guidance and planning policies, notably paragraphs 184 and 193-197 of the NPPF; Core Strategy policy L3; and Development Management policies DMC5 and DMC8.
- d) Thornbridge Hall is a grade II listed building and a number of free-standing buildings and other architectural features within the gardens are also listed buildings. The parkland forms an integral element of the setting of the principal listed building and its associated gardens and the setting of the other listed buildings and structures. The parkland provides the more informal and naturalistic setting for the formal gardens and the Hall, which sits in a dominant position overlooking the parkland. The contribution that the setting makes to the significance of the listed buildings and structures is very significant. The unauthorised developments have caused substantial harm to the setting of the Hall and other listed buildings. This is in conflict with the relevant government guidance and planning policies, notably paragraphs 184 and 193-197 of the NPPF, Core Strategy policy L3; and Development Management policies DMC5 and DMC7.
- e) The gardens and parkland associated with Thornbridge Hall have the potential to include heritage assets with archaeological interest. A number of features were recorded when the parkland was surveyed by the National Park Authority in 1995 and 2004, including large areas of earthwork features, in the southern and western parts of the parkland, thought to relate to the former medieval open field system of Ashford-in-the-Water, and a lynchet (a bank formed by agricultural activity) which appears to have been located in the area that is now covered by the new car park. The site may well also hold important below-ground archaeological evidence. There is no evidence that an assessment or evaluation of any features of archaeological interest was conducted before the unauthorised developments were carried out. It is possible, therefore, that any such features could have been damaged or destroyed. The unauthorised developments are thus in conflict with the relevant government guidance and planning policies, notably paragraphs 184, 189 and 197 of the NPPF, Core Strategy policy L3 and Development Management policy DMC5.
- f) There are numerous trees in the formal gardens and parkland, forming an important part of the overall landscape design. The new driveway across the parkland passes within 4 metres of up to six mature parkland trees and within one metre of at least two of these trees. The driveway between the car park and the formal gardens has encroached into the rooting areas of up to 40 semi-mature and mature trees and within one metre of up to 10 of these trees. The northern edge of the new car park is also very close to a number of semi-mature trees. As a result, it is likely that the unauthorised developments have compromised the health and condition of those trees and threatens their long-term future. The unauthorised developments are thus in conflict with the relevant government guidance and planning policies, notably paragraph 170 of the NPPF, Core Strategy policies GSP3 and L1 and Development Management policy DMC13.
- g) Although we have no evidence of any specific ecological interests that may have been harmed by the unauthorised developments, the fact that the works have been carried out without any apparent ecological assessments or surveys means that the opportunity to assess the nature conservation importance of Thornbridge and its parkland, obtain information about the special interests of the site and mitigate any potential harm to those interests has been lost. The unauthorised developments are thus in conflict with the relevant planning policies, notably Core Strategy policy L2 and Development Management policy DMC11.

- h) Given the nature and scale of the unauthorised developments and the potential for a material increase in traffic generation, the Authority would normally require the submission of a travel plan to allow an informed assessment to be made and the potential impacts on the local transport network to be addressed. This approach is endorsed in paragraphs 102 and 111 of the NPPF. There is no evidence that a travel plan was produced or such an assessment was made before the unauthorised developments were carried out. For this reason, the unauthorised developments are in conflict with the relevant government guidance and planning policies, notably paragraphs 102 and 111 of the NPPF, Core Strategy policy GSP3 and Development Management policy DMT7.
- i) The installation of a new gateway and stile at the southern end of the new car park has caused an obstruction of the public footpath. Similarly, an obstruction has been caused by the installation of a gateway and stile in the new fence line where the public footpath crosses the new driveway through the parkland. These obstructions have detrimentally affected users of the definitive line of the public right of way, especially those with special needs, including those with disabilities. This is contrary to the relevant government guidance and planning policies, notably paragraph 98 of the NPPF, Core Strategy policy T6 and Development Management policy DMT5.
- j) Paragraph 195 of the NPPF states that where a proposed development will lead to substantial harm to (or total loss of significance of) a designated heritage asset, local planning authorities should refuse consent, unless it can be demonstrated that the substantial harm or total loss is necessary to achieve substantial public benefits that outweigh that harm or loss, or all of the following apply:
 - a) the nature of the heritage asset prevents all reasonable uses of the site; and
 - b) no viable use of the heritage asset itself can be found in the medium term through appropriate marketing that will enable its conservation; and
 - c) conservation by grant-funding or some form of not for profit, charitable or public ownership is demonstrably not possible; and
 - d) the harm or loss is outweighed by the benefit of bringing the site back into use.

A similar process of assessment is set out in policy DMC5 of the Development Management Policies.

In this case, in the absence of a Heritage Statement setting out any public benefits resulting from the unauthorised developments and on the basis of the available evidence, it is considered unlikely that any such benefits would outweigh the substantial harm that has been caused to the designated heritage assets, as set out in the preceding sub-paragraphs.

5. WHAT YOU ARE REQUIRED TO DO

- a) Remove the driveway denoted as 'Driveway A', including the adjacent soil bunds, from the Land, avoiding any damage to the roots or rooting area of trees; remove all of the materials used in the construction from the Land and reinstate the Land to its former levels and condition and matching its appearance to the adjoining grassland.

TIME FOR COMPLIANCE: *6 months after this Notice takes effect*

- b) Remove the driveway denoted as 'Driveway B' from the Land, avoiding any damage to the roots or rooting area of trees; remove all of the materials used in the construction from the Land and reinstate the land to its former levels and condition.

TIME FOR COMPLIANCE: *6 months after this Notice takes effect*

- c) Remove the car park, including the adjacent soil bunds, from the Land, avoiding any damage to the roots or rooting area of trees; remove all of the materials used in the construction from the Land and reinstate the land to its former levels and condition and matching its appearance to the adjoining grassland..

TIME FOR COMPLIANCE: *6 months after this Notice takes effect*

- d) Remove the hardsurfacing from the Land, remove all of the materials used in the construction from the Land and reinstate the land to its former levels and condition.

TIME FOR COMPLIANCE: *6 months after this Notice takes effect*

- e) Remove the building, including the adjoining decking, from the Land; remove all of the materials used in the construction from the Land and reinstate the land to its former levels and condition.

TIME FOR COMPLIANCE: *6 months after this Notice takes effect*

- f) Remove the fences, including gateways and stiles, from the Land; remove all of the materials used in their construction from the Land and reinstate the land to its former condition.

TIME FOR COMPLIANCE: *6 months after this Notice takes effect*

6. WHEN THIS NOTICE TAKES EFFECT

This Notice takes effect on 23 July 2021 unless an appeal is made against it beforehand.

Dated the 15 June 2021

Signed



Andrea McCaskie
Head of Law
On behalf of Peak District National Park Authority
Aldern House, Baslow Road, Bakewell, Derbyshire, DE45 1AE

ANNEX

YOUR RIGHT OF APPEAL

Please note that you have a right of appeal to the Secretary of State against this enforcement notice. If you do wish to appeal against the enforcement notice, then you may do so either:-

(a) on-line at the Planning Casework Service area of the Planning Portal (www.planningportal.gov.uk/pcs);

Or

(b) by completing enforcement appeal forms, which may be obtained from the Planning Inspectorate by telephoning them on 0117 372 6372 or by e-mailing them at enquiries@pins.gsi.gov.uk.

When submitting your appeal, you must state the grounds on which you wish to bring your appeal under section 174 of the Town & Country Planning Act 1990 ('the Act'), and state briefly the facts upon which you propose to rely in support of each of those grounds. A copy of the relevant sections of the Act, entitled 'Legislative provisions for enforcement notices and appeals', are enclosed with this notice for your information. In addition, the Planning Inspectorate have produced guidance booklets entitled "How to complete your enforcement appeal form", and "Making your enforcement appeal", which are available on request by telephoning them on 0117 372 6372 or by e-mailing them at enquiries@pins.gsi.gov.uk. Copies are also available on-line at www.planning-inspectorate.gov.uk.

You must ensure that any appeal is received, or posted in time to be received, by the Planning Inspectorate before 23 July 2021, being the date this notice comes into effect. A copy of the completed appeal forms and all documentation enclosed should also be sent to this Authority.

THE APPEAL FEE

The total fee payable for the deemed planning application in this case is £5544, which should be sent to the Authority together with their copy of the appeal form. Full details of how to pay the fee to the Authority are provided in the enclosed "Deemed Planning Application Fee Payment Form".

You will be notified in the Start Letter from the Planning Inspectorate, the latest date by which this fee must be paid to the Authority. If the required fee is not paid to the Authority by the date given in the PINS Start Letter, neither the deemed planning application nor any appeal on ground (a) will be considered. If other grounds have been pleaded, your appeal will proceed on those grounds alone. If your appeal is made on ground (a) only and you do not pay the fee, your appeal will lapse and, if there are no other appeals against it, the enforcement notice will come into effect.

WHAT HAPPENS IF YOU DO NOT APPEAL

If you do not appeal against this enforcement notice, it will take effect on 23 July 2021 and you must then ensure that the required steps for complying with it, for which you may be held responsible, are taken within the period specified in the notice. Failure to comply with an enforcement notice which has taken effect can result in prosecution and/or remedial action by the Authority.

PERSONS SERVED WITH THIS NOTICE

The persons listed below have been served with a copy of this enforcement notice:-

- (1) Emma Harrison, Thornbridge Hall, Ashford-in-the-Water, Bakewell DE45 1NZ
- (2) James Harrison, Thornbridge Hall, Ashford-in-the-Water, Bakewell DE45 1NZ
- (3) The Company Secretary, Andromeda Park Ltd, (Co. Regn. No.04352247) of Thornbridge Hall Estate, Longstone Lane, Great Longstone, Derbyshire DE45 1NZ
- (4) Barclays Bank UK PLC (Co. Regn. No.9740322), care of Barclays Mortgages, P.O. Box HK444, Leeds LS11 8DD
- (5) Mr Brocklehurst, Highfield Farm, Ashford-in-the-Water Bakewell DE45 1QN
- (6) Mr Wright, Gardeners Cottage, Thornbridge Hall, Baslow Road, Ashford-in- the-Water DE45 1NZ
- (7) Mrs Wright, Gardeners Cottage, Thornbridge Hall, Baslow Road, Ashford-in- the-Water DE45 1NZ
- (8) Mr Carter, South Lodge, Thornbridge Hall, Baslow Road, Ashford-in-the-Water, DE45 1NZ.
- (9) Mrs Carter, South Lodge, Thornbridge Hall, Baslow Road, Ashford-in-the-Water, DE45 1NZ
- (10) The Owner/Occupier, The Café, Thornbridge Hall, Ashford-in-the-Water, Bakewell DE45 1NZ