

Introduction

1. Caroline Payne, Director of Emery Planning, chartered town planning and development consultants. BA Honours in Urban and Regional Planning with a Diploma in Town and Country Planning from the University of Sheffield. Member of the RTPI and Practitioner Member of IEMA.
2. I was instructed by the Appellant in April 2020 and have been directly involved since this time.
3. This speaking note is structured to follow the Inspector's pre-inquiry note and sets out the key points I intend to make verbally during the inquiry. A copy will be made available to the Inspector and other parties for ease of reference.

Background to Thornbridge and the enforcement notice

4. Mr and Mrs Harrison (the Appellant) have carried out a committed programme of conservation and enhancement since purchase in 2002 (**Proof 7.1 -7.8**). This has included reversing the spiral of decline and harmful changes carried out by previous owners and re-acquiring land that had been separated from the main estate. By opening the grounds more widely to the public, the Appellant aims to create a profit stream to fund further restoration and ongoing repairs (**Proof 7.9 -7.12**) through opening to the public seven days a week alongside weddings and private functions (**Proof 7.21**).
5. Various options were considered by the Appellant to increase car parking, separate weddings from visiting members of the public and provide a dedicated café for visitors (**Proof 7.21 to 7.38**). I concur with the Appellant that the proposed parking area is the most logical solution.
6. The enforcement notice was issued on the basis that the development amounts to substantial harm (**Proof 3.25 -3.27**). It is not reasonable to contend, as the enforcement notice does, that the development amounts to substantial harm. There is no total destruction or substantial loss of the heritage assets or their significance (**Proof 9.31 – 9.34**). The NPA has since revised its position advising that the harm is at the top end of less than substantial.
7. Historic England consider there is less than substantial harm. This conclusion does not take into account the landscaping mitigation plans and they express no view on the public benefits (**Proof 3.28 – 3.29**).
8. The Gardens Trust consider less than substantial harm but reference paragraph 201 of the Framework (relating to substantial harm). It is now common ground with the NPA that paragraph 202 is the relevant paragraph (**SO CG**). It is not clear what evidence the Gardens Trust refer to in their response. (**Proof 3.30-3.31**)

Relevant planning decisions

9. I have referred to three cases where permission has been granted for a new or enlarged car park and where this was required to enable or promote public access to a heritage asset. In all three cases, there was found to be less than substantial harm to the heritage assets and that harm was outweighed by the public benefits specific to the cases and comparable with those presented here (**Proof 8.19 – 8.20**).
10. In the Chatsworth case, which is of most relevance, 220 new car parking spaces would be provided, the existing car park would be subject to cut and fill to create a level surface and a new access road would be created from the A619/A621 through woodland and across parkland (**Proof 8.1 -8.10**).

Development plan

11. The adopted development plan is agreed (**SOCG 4.6-4.8**). The Core Strategy was adopted in October 2011 and pre-dates the Framework. Having regard to NPPF 218 and 219 due weight should be given to policies in the Core Strategy according to degree of consistency with the Framework. CS L3 is not consistent with the Framework (**Proof 9.17**).

Ground (c) appeal

12. The Court of Appeal in *Hampshire CC v Blackbushe Airport Limited [2021]* concludes that to be curtilage, the land must be so intimately connected with the building as to lead to the conclusion that the former is in truth part and parcel of the latter (paragraph 138 of judgment). Also, in *Hiley v The Secretary of State for Levelling Up, Housing and Communities [2022]* EWHC 1289 (Admin) the Inspector concluded that the extent of a building's curtilage is a matter of fact and degree. The physical layout of relevant land or buildings, their past and present ownership and their past and present function were all relevant factors.
13. I rely on the briefing note prepared by Kathryn Sather & Associates which addresses these three tests in respect of curtilage (**Proof, Appendix 26, pages 886 & 887**).

Ground (a) appeal

14. I consider the main issues from the pre-inquiry note below:

The effect of the development on the character and appearance of the area having special regard to the desirability of preserving the setting of nearby listed buildings and the contribution that setting makes to their significance

15. Ms Sather provides a detailed assessment of the impact of the development proposals on each of the listed buildings and their settings and I rely on her conclusions in this regard (**Proof 9:30, KSA Proof 133-135**). Overall, Ms Sather concludes that the balanced impact of the development is slightly beneficial.

The effect of the development on the character and appearance of the area taking account of the special attention to the desirability of preserving or enhancing the character or appearance of Thornbridge Conservation Area and its significance

16. I rely on the evidence of Ms Sather in this regard who concludes that the overall impact on the significance, character and appearance of the conservation area is neutral (**Proof 9.30, KS Proof 144**).

The special interest and significance of the gardens at Thornbridge Hall, a grade II registered park and garden

17. I rely on the evidence of Ms Sather in this regard who concludes that the development causes less than substantial harm to the registered park and garden in the middle of the range. With the proposed mitigation, the balance of impacts correlates to less than substantial harm at the lower end of the range (**Proof 9.30, KS Proof 153**).
18. Consistent with the decision of the Secretary of State on Whitechapel Bell Foundry, Ms Sather carries out an '*internal balance*' of heritage harms and benefits and concludes that overall, there is a neutral impact (**Proof 9.35 – 9.38**).

Conserving and enhancing landscape and scenic beauty of the Peak District National Park

19. The National Park is a living, man-made cultural landscape that has evolved over time and needs to continue evolving to sustain its future (**CD 3.02, p.36, para 7.18**). The Landscape Strategy and Action Plan (**CD3.03, p. 142**) states a priority is to protect the historic integrity of these landscapes whilst allowing them to evolve. Issues relating to the landscape character and historic asset are intrinsically linked in this case (**see DE Proof, paras 7.21 to 7.33**). This is also demonstrated by decision making at Chatsworth where landscape effects were considered as part and parcel of the overall heritage assessment (**see CP Appendix 12, p.388, Issue 2**).
20. The site falls within the Estateland landscape character area where historic houses surrounded by parkland forms one of the key features (**Proof 9.72 to 9.75**). Landscape and visual effects are localized in that they are tangible within the parkland but they do not exert themselves to any extent upon the character of the wider landscape (**Proof 9.79**). NF concludes there would be some short to medium term localised, levels of adverse landscape and visual effects. With mitigation in the longer term these effects will for the most part reduce to a negligible landscape and visual effect (**NF Proof 7.26**).
21. Development conforms with DMP DMC1 which requires a proposal to show how the valued landscape character, including natural beauty, biodiversity and other characteristics, will be conserved taking into account the relevant Landscape Strategy and Action Plan, in this case the Derwent Valley LCA and Estatelands LCT.

22. If the Inspector concludes there is harm, then there are other material considerations i.e the benefits in tables 1 & 2 (**Proof p.55-60**), which outweigh the short term, low level of localized harm, discussed below.

Potential features of archaeological interest

23. Mr Hanna concludes that there has been less than substantial harm to the non-designated heritage assets (**Proof 9.55**). Value of assets is low to medium and magnitude of impact is also low to medium. Having regard to balanced judgement required by NPPF 203, I conclude the benefits outweigh the harm.

Public benefits

24. Should the Inspector conclude that there is less than substantial harm, I consider the justification for the proposals and the wider public benefits.

25. The **clear and convincing justification** required by NPPF 200 is the increased public access to the grounds, the opportunities for deeper understanding of the Hall and special qualities of the estate. The profit stream generated will contribute to the future of the heritage assets through repair and restoration (**Proof 9.39 – 9.40**). This is included in the Thornbridge Mission Statement (**CP Appendix 11**).

26. Benefits comprise:

- Public access to gardens 7 days a week (**Proof p. 55-56**), promoting opportunities for the public, understanding and enjoyment of the special quality of the estate and readily available access to the only RHS garden in the National Park. **Very significant positive weight.**
 - Includes school visits, free foster family visits, access for charitable organisations.
 - Visitor numbers have increased from a previous high of 7,300 to year end 2020 to 33,000 year end 2023. Visitor numbers so far this year are 54,535 (**CD 8.18**). Groups visiting this year include Derbyshire and Historic Buildings Trust, historical re-enactment groups, various WI groups from across the Midlands, gardening groups, American Gardeners Loving Society as well as school, art groups etc.
 - The estate is working on a community garden which would be open to the public to visit, garden and grow (and keep produce).
 - Accessible routes around the garden with sensory trails.
 - Seasonal activities including fun run (profits to T4E and Thomas Theyer Foundation), Mothers Day/Father Day, family/pet friendly bonfire night (no fireworks), members parties, quiz evenings.
- Public access to the house: **significant positive weight**. A variety of house tours provided in 2022 including Thornbridge Uncovered – in-depth history of the estate, tours plus beer tasting, Christmas tours, Derbyshire Day tours focusing on Peak District promotion.
- The opening of a parkland walk: **Significant positive weight**. Wide access to the parkland for the first time in the history of the estate. No requirement or incentive for the Appellant to

provide this in the absence of proposals, as it would attract maintenance and liability costs if pursued in isolation and condition is the way to secure this (**Proof p.57**).

- Support for the Thornbridge 4 Everyone Foundation: **Moderate positive weight**. Thornbridge 4 Everyone Foundation is now registered as a charity with Companies House (charity number 1198752). Initiatives for Sheffield based social workers to visit with children to take part in crafts with food, drink and transport all funded through the foundation.
 - Access to the Monsal Trail: **Significant positive weight**. The trail attracts 300,000 visitors a year providing access to Thornbridge without reliance on car, a spin-off benefit to trail and unique to National Park. *Wish to provide adult changing facility for disabled adults which would be available to all users of trail (planning permission needed)*(**Proof p58**).
 - Highways benefits: **Minor positive weight**.
 - Job creation: **Moderate positive weight**. At the time of writing my Proof, jobs stood at 35 full time equivalents. This is now at 43 full time equivalents . Programme of staff upskilling by sending staff on various courses e.g. marketing for office staff. Positions of note since Proof prepared including Marketing Manager, additional part time gardeners and currently seeking to recruit an events co-ordinator.
 - Securing optimum viable use: **Moderate positive weight**. The optimum viable use in this case, is the existing use. It is not a requirement of policy to achieve an optimum viable use, it is not a freestanding test but part of the consideration of public benefits. The approach proposed is a tried and tested way of securing the future of historic parks and gardens (**Proof 9.23 – 9.29**).
 - Avoiding overflow parking to the front of the Hall: **Moderate positive weight**. Existing parking 35 plus 20 overflow.
 - Succession tree planting: **Significant positive weight**.
 - Biodiversity enhancements: **Moderate positive weight**.
 - Private events have continued in the Carriage House namely weddings at weekends. During the week this includes funerals/wakes, business meetings and corporate days out (e.g National Trust away day). Use by community groups e.g. dance studio and charities. No charge for community and charity groups.
27. The PDNPA considers little weight should be given to these benefits. The justification for attaching little weight seems to be that this was either being achieved or could be achieved in any event (**AC Proof paras 4.19 -4.26**). I disagree with this conclusion. Previously, private functions and opening to the public could not co-exist prior to the development taking place. The development proposals have enabled Thornbridge to be widely opened for the enjoyment and appreciation of the heritage asset.
28. Taking account of the benefits and weighing those benefits against any less than substantial harm (should the Inspector reach that conclusion), I consider that the public benefits outweigh the less than substantial harm even after considerable importance and weight is given to the harm.

Its effect on trees

29. There may be some long-term impact on trees, no trees rendered immediately unstable and none have characteristics that make them stand out from other trees on the estate. There is also opportunity for succession planting. No conflict with CS, GSP3 and L1 or DMP DMC13 (**Proof 9.89**).

Other matters

The effect of the development on the biodiversity of the surrounding area

30. A robust ecological assessment has been undertaken which concludes there is no conflict with CS L2 and DMP DMC11 due to no features of biodiversity being adversely affected. The development achieved BNG of 7.4% (**CP Proof, Appendix 24 p 814**).

The effect of the development on the transport network and highway safety

31. No objection raised by DCC highways (**AC Proof para 4.7 to 4.10**).

The effect of the development on a public right of way

32. The Rights of Way Assistant at DCC has confirmed that the installed kissing gates are acceptable subject to a condition requiring appropriate surfacing in the gateways and access to the gateways. I understand that this matter is agreed (**AC Proof 4.14**).

The effect of the development on flood risk

33. Drainage strategy submitted to DCC and I understand that this has been signed off by DCC.

Overall planning balance

34. In terms of the heritage balance in respect of heritage assets, Ms Sather carries out an '*internal balance*' of heritage harms and benefits and concludes that overall, there is a neutral impact. On this basis, there is no requirement to provide public benefits.
35. Given the RPG status of the parkland, landscape character and heritage considerations are intrinsically linked. Mr Folland concludes that there would be some localized, low level landscape effects in the short to medium term and that in the longer term this will reduce to a negligible landscape effect (**NF Proof 7.26**).
36. Should the Inspector conclude that there is less than substantial harm, the less than substantial harm would be clearly outweighed by the considerable and unique public benefits associated with the proposals. These public benefits include widening the accessibility of the estate to the public as a whole, including disadvantaged and underprivileged groups through 7 days a week opening, access to the house, the parkland walk and linkages with the Monsal Trail. This enables the wider public to understand and enjoy the heritage assets which in turn will secure their future. Additional benefits

include job creation, highways benefits, avoiding overflow car parking and environmental benefits through succession tree planting and biodiversity enhancements. The requirements of the Framework and policies DMC5, DMC7, DMC8 and DMC9 are met.

37. In terms of non-designated heritage assets, Mr Hanna concludes that there has been less than substantial harm to the non-designated heritage assets (**Proof 9.55**). Value of assets is low to medium and magnitude of impact low to medium. Having regard to NPPF 203, I conclude the benefits set out above outweigh the harm. The requirements of DMC5 are met.
38. In relation to trees, no trees rendered immediately unstable and none have characteristics that make them stand out from other trees on the estate. There may be some long term impact on trees, however Mr Anderson concludes that the main problem in respect of trees at Thornbridge is the lack of young trees which remains his overarching concern (**BA Proof para 5.1**). This proposal provides the opportunity for succession planting. No conflict with CS, GSP3 and L1 or DMP DMC13 (**Proof 9.89**).
39. I conclude that the proposal would accord with the development plan taken as a whole.

Ground (f) appeal

40. The Appellant asserts that the alleged harm could be remedied through lesser steps as a result of the grant of a temporary planning permission for the café and a condition requiring the driveway and car park to be removed if the use ceases (**Proof 11.1-11.4**).

Ground (g) appeal

41. A period of 12 months is requested to allow (a) further archaeological assessment to be undertaken including targeted evaluation to understand the geology in terms of top soil/sub soil horizon in relation to level of impact on below ground non-designated heritage assets (3-5 months), (b) a sufficient period of dry weather (Spring/Summer 2023).