

**CLOSING SUBMISSIONS ON BEHALF OF
PEAK DISTRICT NATIONAL PARK AUTHORITY**

The ground (a) appeal

Designation of the Site

1. As the inquiry has heard, the Site is a particularly sensitive one, subject to multiple heritage designations. Not only is Thornbridge Hall a Grade II Registered Park and Garden, conveying ‘special interest’ at a national level, the Site is recognised by other statutory designations, being within a National Park, Conservation Area, and containing many listed buildings as well as the principal one. As she explained in her oral evidence, this is why Anna Badcock refers to the Site as “highly designated”. The RPG is the “glue” (see Deborah Evans) which provides the context and setting to the other heritage assets at Thornbridge Hall; harm to the RPG therefore equates to harm to them. Thornbridge Hall is one of only four RGPs found within the National Park, and so makes part of the collective contribution to the historic significance and enjoyment of the National Park. It is also associated with other sites such as Clumber Park (Grade I) and Harlaxton Manor (Grade II*) through the ornaments and artefacts saved and carefully sited at Thornbridge, creating connections between the gardens and the park while evoking their origins (Deborah Evans PoE para 7.20).
2. In her oral evidence Anna Badcock explained cogently why she uses the term ‘nested’ in referring to the designations at the Site: “It reflects accurately the overlapping and layered

designations that exist on the site, and it applies to settings too. There are nested designations and settings of the heritage assets as well: they are complex and multi layered, reflective of the complex and multi layered heritage on the Site.” The levels of protection are important because they indicate the complexity of the landscape, the different attributes, and the special interest, qualities and values of the wholes and the groups and the different groups within them.

3. It was a theme of the Appellant’s case that the Authority had somehow falsely elevated the importance of Thornbridge, for example by pointing out that there are other Grade I and II* sites within the National Park. However, that and other comments were simply statements of fact, as Deborah Evans explained (in her oral evidence):

“There are only four in the National Park, which is quite remarkable given the size of it. Chatsworth etc are big players in historic landscape. It is important that Thornbridge is one of the ones within the Park, and we know, particularly through Marples’ overlays, that he was interpreting them...

I’m simply making the point that there are very few RPGs within the National Park, and Thornbridge does sit in illustrious company, the only mercantile property to have been registered...

What I am saying in para 8.1 is that this is a multi- designation site, and that is of interest to a determining authority. We have the Conservation Area, and the RPG, that’s quite unusual. And that’s what I mean when I say it’s raising the bar, because there are lots of things to consider. It’s about the totality of the historic environment at Thornbridge...It’s about understanding how the different designations inform one another.”

Significance of the Site

4. Deborah Evans identifies (PoE para 5.20) that the Site’s heritage significance derives from its archaeological, architectural, artistic and historic interest as well as its designation as a Registered Park and Garden. As Anna Badcock explains in her written evidence (para 6.29), the RPG provides more than the setting to the listed buildings and formal gardens; it was conceived alongside them and influenced their design. Further, the ‘nested’ nature of the settings of the listed buildings and structures contributes an enormous amount to their significance. As she found from her research:

“The formal gardens and designed parkland was designed and planned to the finest level of detail, taking advantage of the topography and natural fall of water, with

views and routes of movement being carefully orchestrated to delight and provide a mixture of intimate and grand spaces from which to appreciate the buildings, both inside and out. The formality of the gardens decreases with distance from the Hall, providing the flow into the more naturalistic parkland. Despite extensive remodelling on two occasions, the Hall has retained the status of its east and south fronts, with principal rooms on the ground and first floor being placed to take best advantage of the view afforded over the gardens and parkland. The artistic, architectural and historic interest, and the evidential and historical values associated with the place are extremely high.”

5. In terms of the ‘evidential’ value of the Site, which derives from the potential of a place to yield evidence about past human activity¹, the evidential value of the Hall and its grounds and parkland is very high: one of the interesting aspects of the property is the layering of history provided by several episodes of rebuilding, redesign, alteration and embellishment carried out by successive owners. All of these episodes can still be read in the fabric of the Hall and gardens, and within the design and layout of the grounds and planting schemes. Importantly, as Anna Badcock observes, their collective work coheres. A wealth of archival evidence survives, in the form of deeds, plans, architects’ drawings and designs, sales particulars and photographs, and this greatly enhances the evidential value of the property. Some plans appear not to have been executed and this in itself provides important evidence for historic decision-making and choices, adding depth to the evidential resource and the historic and architectural interest.
6. Indeed there is evidential value in the landscape from at least the medieval period, long before the parkland was created, in the form of earthworks relating to remnant medieval open fields in the southern and western parts of what is now the parkland, and there are physical traces of boundaries removed during creation of the park. There may be further buried archaeological resource also providing evidential value, as yet unevaluated.
7. Thornbridge’s historical values (deriving from the ways in which past people, events and aspects of life can be connected through a place to the present) are also very high.
8. As to aesthetic value (deriving from the ways in which people draw sensory and intellectual stimulation from a place: see Anna Badcock para 6.37), the design values of the Hall and its surrounding buildings, the gardens and the parkland are very high. They reflect popular trends in building and garden design of the times, which are also grounded in the locality.

¹ Anna Badcock PoE 6.30

9. The architectural and historic interest of the gardens comes from its intriguing contrast and blend of formal and informal, planned and fortuitous, and period-specific styles on a variety of scales. The more theatrical elements, particularly those introduced by Boot in the mid-20th century, add to the charm, but the design of the whole holds together strongly. That the place was designed to impress is clear from the introduction of mature planting into the newly-formed parkland in the late 19th century, the imposing entrance way with monumental urns and architecture and the careful positioning and later re-orienting of the Hall in relation to its surrounding landscape, creating imposing and wide views both to and from it². Anna Badcock finds that despite the eclectic mix of objects within them, the gardens cohere, "...with their intricate combination of spaces, views, and focal points."³
10. Deborah Evans further identifies⁴ that the archaeological interest of Thornbridge is conveyed through the construction techniques used to create the historic terraces, drives, ponds and features found within the RPG, and that the architectural and artistic interests of the designed landscape are interrelated. She notes the key phase of landscape improvement c1890–c1930 reflecting social mobility and the advancement of industrial and professional wealth within English Society. She explains that self-made men such as George Marples aspired to become part of the Establishment and to enjoy the social standing and company of the aristocracy and county gentry. The deliberate choice of a Revivalist architectural and/or landscape design style clearly expressed this by evoking a sense of shared inheritance. That Marples effectively interpreted Haddon Hall, one of the premier landed houses of Derbyshire, both reflects his own personal ambition and a specific understanding of good taste. The skills and expense involved in creating the gardens at Thornbridge, such as the choice of different stone, use of 'natural' features such as quartz and tufa, the use of water, the use of heated glasshouses and the use of a wide variety of species and hybridised plants, also reflected the scientific and technological advancements of the period. Backhouse & Sons were originally nurserymen and their garden commissions showcased their plant collections and introductions. Craft horticulture was a notable upper-class pursuit and through his own investment in his landscape Marples was able to engage on almost equal terms with the likes of the Dukes of Devonshire and Rutland⁵.

² Anna Badcock para 6.39

³ Anna Badcock PoE para 6.21

⁴ Deborah Evans PoE para 5.21, 5.22

⁵ Deborah Evans PoE Appx 2

11. In relation to the historic interest of Thornbridge, Deborah Evans noted (PoE para 5.23) that to lie in the high level of intactness of the designed landscape, in its archive records and in the associations of people who created it, owned it, maintained it, enjoyed it or visited it.
12. Thus, Thornbridge is a historic designed landscape of national importance. Kathryn Sather may have attempted to downplay the significance of the Site, or perhaps put it in its place, by insisting that it is listed as ‘only’ Grade II, accounting for 63% of all listed sites, but a Grade II site is nonetheless of *national* importance and of special interest, warranting every effort to preserve it. As Deborah Evans pointed out in cross-examination, of the c1600 sites on the register in England, most are Grade II, and it is still unusual to be registered, and thus to be registered is important.
13. Anna Badcock found (PoE para 6.28) that the interests and values of the buildings and structures are enhanced by their strong group value. Kathryn Sather thus understood the Authority’s approach to have been one of assessing “everything” in a group and thereby faulty. She queried whether setting had been understood before the impact of the unauthorised development was assessed, but it is submitted that this has clearly been taken correctly into account by the Park Authority and in any event that there cannot be any question about either the expertise of Anna Badcock and Deborah Evans or the approach that they have taken in this case in their assessment and judgments. The inspector will make her own judgment about each witness’ contribution and demeanour, but she is invited to agree that the Authority’s witnesses were conscientious, eloquent and convincing each in their turn.
14. As she explained, Anna Badcock did not in fact take the approach for which she was criticised, but in fact it is Ms Sather who misses the big picture in relation to her assessment of the impact on the heritage assets, resulting in implausible results of either ‘neutral’, ‘low adverse at the very low end of less than substantial harm’, or even ‘slight beneficial’. As put to her in cross-examination, her conclusions strongly contrast with those of Historic England (the Government’s statutory adviser on the historic environment) the National Park Authority, and also the Gardens Trust. The inspector is respectfully invited to prefer the opinion of these experts. The unauthorised developments have caused the highest level of ‘less than substantial’ harm, threatening permanent change which erodes the significance of the RPG and does not enhance it.

The designed nature of the landscape

15. As Deborah Evans explained, the significance of the landscape is rooted in the changes which took place from the late 18th Century: the improvement of a small agricultural estate into a state-of-the-art late Victorian/Edwardian Gentleman's residence. She explains that the key overlay within the landscape is the holistic house, garden and parkland composition of George Marples⁶: "This is the landscape that we see, and it is why the Site was registered. Marples intended the garden and park to link visually and physically⁷."
16. The historic records and site evidence show that Thornbridge Hall is a holistic design composition of Hall, gardens and park, each element complementing the other. Through landform and design, the visual appreciation of this composition is paramount⁸, and the views to the south and east are especially important. Deborah Evans drew attention to the various sources, as follows:
- The Gardener's Chronicle, 1898, which states: "on the east and south the views are lovely and varied";
 - NHLE entry 1001275 (Thornbridge Hall RPG), 1993 which refers to "far reaching views to the south and east out over the countryside" and "extensive views south over the park to the farmland on the distant hill side";
 - The Adopted Conservation Area Appraisal, 2005, within which the accompanying drawing A4185/3 records: "Wide views, within and outside the CA". This includes views to the south from the Rose Garden, south lawn and the historic drive where it enters the park from the north. In addition, views to the south, southeast, north and northeast are recorded from the northeast park, from the public footpath and also from the historic drive. The accompanying text similarly describes views from the south garden: "wide views across the parkland and beyond", from the East Terraces: "good views out to the east and south", from the Rose Garden: "To the south is a lower wall allowing views across the park": and the grotto where "wider views (can be experienced) from its roof".

⁶ Deborah Evans PoE 5.7-5.16

⁷ Deborah Evans PoE para 5.10, figs 7a-7g and plates 13-19.

⁸ Deborah Evans PoE para 6.19

17. The historic and modern photographs also help to identify commonly appreciated views from the gardens or from the park towards the Hall⁹. People can enjoy the borrowed views of the countryside beyond the Park, as noted by Historic England. Deborah Evans tells us¹⁰ that the park played a crucial role in these views with the mid ground helping to connect the formal gardens with the wider surrounding landscape and, more locally, creating a sense of continuity with the older Churchdale Hall standing within its own park to the east of the site. Churchdale Hall is particularly visible from the south lawns and from within the park standing above the boundary woodland beside the A6020.
18. By means of maps and available historic evidence, Deborah Evans described Marples' intentions. In her oral evidence she drew attention in particular to the following:
- 1) Appendix 1 to her PoE, fig 7a and 7b- "This was more than serendipity, this was an intentional view. At that time there were more trees in the park, but they were not planted in screens or blocks, it was a typical scattered planting. The OS accurately records the positions of specimen trees within the landscape. The intention here was intervisibility of the boating pond- one of the key features- and the Hall, and also along the historic drive, there was a sense of arrival at the house."
 - 2) Fig 7f- "This is still recognised today. The strength of the landscape design helps orientate people. You are naturally encouraged to engage with the landscape to the South and East, how the mansion and formal gardens relate to the surrounding parkland is part of Marples' holistic composition."
 - 3) Plate 13 (from the rose garden across the landscape)- "Within this view we also see a few mature lime trees that Marples retained from the previous smaller parkland. When looking across to the boating lake, and across to the South lodge, we are looking into the 'southern extent' of the park to the south of the historic drive, you have the woodland belt, and then this immediate and persuasive relationship with landscape beyond...the key thing remember, is that Marples was *nouveau riche*, he wanted to sit down and dine with Dukes. His work was a homage to Haddon Hall, he wanted to sit in a dining room and pretend that the land beyond was part of his wider estate, like Chatsworth. So it was an expression of his social ambition."
 - 4) Plate 14 (an example of one of the gates, from the rose garden down to the park)- "This is where Marples and his guests would have descended, from different areas of the gardens, it is a very clear expression of how they were interrelated and how the parkland also had its function."
 - 5) Plate 16- "This is useful because it helps convey the relationship of the park to the main road which stands above it to the east. You can just about work out the terrace- the A6020- along which it runs, and also the belt- a belt planted by Marples to shut out that road. It was his marker of controlling his environment. He didn't want modern intrusions

⁹ Deborah Evans PoE fig 7

¹⁰ Deborah Evans PoE para 6.21

unless they were on his terms...he augmented [the belt], increased the planting within it, and gave it a more ornamental character.”¹¹

- 6) Plate 17- “This is capturing the approach up the historic drive towards the house, showing how on approach you could see the relationship between the formal gardens and the parkland rolling out. The key thing at this period is that Marples valued this- he created this parkland, extended it, ran it up to the main road taking in previous farmland. The key is where chose to place his drive: from the new lodge, with the approach from the south. No drive, and no development, was established by Marples or even his successor Boot, within that area of the parkland. It was valued and appreciated as this open, parkland, landscape.
- 7) Plate 18- “This is an up to date version of the East terraces, it still clearly shows the intended design relationship and the function of these terraces and the landscape to the East.”
- 8) Plate 19- “The beech walk looking south-east along it. A walk that led to a view to the expansive open view across the parkland.”
- 9) Plate 20- “A winter view from the pavement beside the A6020- we see the ground rising to the garden boundary.”

19. Deborah Evans emphasised that whilst Marples was a gentleman who wished to be part of the landed establishment of Derbyshire, seen in how he interpreted Haddon Hall and how he set out his personal ambition and personal understanding of good taste (Revivalist Romantic and the Arts and Crafts movement), he was also very pragmatic and Thornbridge reflects an understanding of modern technologies. Marples wanted the best so he employed Backhouse & Sons, one of the foremost landscape contractors of period, to build the gardens. However, the *Gardeners’ Chronicle* of September 1898 is very clear that Marples himself “was highly involved in the layout and the evolution of the designed landscape which reads as a legible, coherent landscape design”, and that his ideas were interpreted by Simeon Marshall:

“...who would have taken a personal responsibility in dealing with these high end clients to deliver what they wanted. Marples was very well informed about the horticultural and landscape fashions of the time, and that’s what he wanted. You see it in the overall design aesthetic, the glasshouse he was using. How the whole landscape was part of the experience. The gardens that he would have visited on a daily basis, where would have taken visitors to impress them. So when we talk about the ‘working areas’, we need to caveat that very little was out of the view of the owner. Particularly with a relatively small establishment like Thornbridge.”

20. The *Gardeners’ Chronicle* article is an authoritative account of the landscape design, celebrating Marples’ architectural, artistic and botanical achievements. As well as referring to the views at Thornbridge residence and estate as being “lovely and varied” and describing the

¹¹ It was not suggested that the entire belt as seen on the OS of 1898 was started and established within 2 years of Marples acquiring the Site in 1896.

way the estates of Chatsworth and Hassop adjoined Thornbridge “in such a manner that the general effect is one of continuity”, the article also describes the considerable expansion of the parkland that was created by Marples, the “heavy task” of creating the approach road, and the planting of trees and shrubs of an “unusually large size” with an immediate effect that was “very fine”. Marples’ designs were set out in detail, and it was emphasised that whilst Backhouse & Son had given designs for the bulk of the work, “many of the ideas originated with Mr. Marples himself”, who showed himself “...ever ready to adopt suggestions which he considered would add a charm to his future home”.

21. Deborah Evans explained in her oral evidence the significance of having one’s home featured in the *Gardeners’ Chronicle*. Inclusion in that publication denoted social achievement and acceptance, rather like a landscape being written up in *Gardens Illustrated* today.
22. Marples’ achievements are recorded by the Ordnance Survey c1922 (see Deborah Evans PoE, fig 6a) which shows the maturing formal gardens, heavily planted park and the elegant serpentine drive winding from the lodge to the Hall, and also the later addition to the gardens in the form of a bowling green and fishpond on ground below the east terraces (fig 6b). The sales particulars that followed Marples’s death in 1929 also recorded a boat house on the pond near the lodge and the accompanying photograph clearly records the relationship of the house, park and lake as a holistic composition (Figure 7a).
23. Anna Badcock, too, recognised the designed nature of the landscape. She pointed to Marples’ aspirations for the Hall and the expansion of its grounds, even prior to his purchase, as evident from archival documents.¹² Pencil annotations, likely to be in Marples’ hand, to the 1896 sale catalogue, note the ownership of surrounding land by the Duke of Devonshire. In addition, a carefully doctored photograph of the Hall shows the intention to enlarge the bay window on the south front, and alter the roofline. In Ms. Badcock’s view Marples was clearly considering the views afforded from the house, and a new parkland setting for his redesigned Hall at the time of sale (see Anna Badcock PoE, Appendix 1, Plate A2). She further pointed to the numerous plans and drawings held in Sheffield Archives, many of them Hadfield’s, which illustrate the effort that went into Marples’ plans for the redesign of the Hall and grounds, with new drawings by Hadfield continuing to be produced from 1896 to 1913 (Appendix Plates A4-10).

¹² Anna Badcock PoE para 6.7

24. Particular attention was paid to the key east and south fronts, with a number of iterations and design options being presented (Appendix 1 Plates A4-6):

“...His plans for a second floor on the main part of the house were not realised. These elevations still afford fine views across the parkland and gardens, and to the hills beyond from the terracing, South Lawns and the principal rooms; since Craven’s time the drawing room has occupied the prime south-east corner position on the ground floor, with the dining room being the other principal room on the east front, and Marples’ morning room and billiard room were on the south front. On the first floor, the principal south and east front rooms were bedrooms, with the principal bedroom taking the prime location in the southeast corner (above the drawing room). Marples placed his study in the southwest corner.”¹³

25. At the heart of this case therefore is the need to respect and bear in mind the original design intentions. Marples took the landscape that he inherited from Craven, reworked it, enlarged it, and the drive was part of that overall holistic landscape design. The Inspector may find the suggestions made by the Appellant with a view to downplaying the conscious design of the Site to be unconvincing. It is worth noting that the Conservation Area was designated because of its special architectural and historic interest, namely its significance as a designed landscape, providing an ‘excellent example of the trends in architecture and garden design at the turn of the century’ on land surrounding a large 19th-century country house.

The unauthorised works

26. Deborah Evans noted (PoE 6.22) that the unauthorised works are conspicuous in all of the views to which she drew attention (Plates 13–19). They disrupt and intrude upon them physically, and compromise the ability to appreciate the historic design intent aesthetically and intellectually. Drive A and the car park are also highly visible from the pavement along the west side of the A6020 (Plate 20) introducing an incongruous modern and functional feature into a readily recognisable historic landscape. They were hastily and poorly constructed and go against Marples’ vision, challenging the integrity of the original intent of beauty and tranquillity. In view of the harm that they cause, they do not represent good stewardship of the Site.

27. It is important to understand various aspects of the context of the Site in order to understand the effects of the unauthorised development, and the mitigations now proposed. The inspector is referred to paras 5.8 and 5.9 of Anna Badcock’s proof of evidence, which explain that the

¹³ Anna Badcock PoE para 6.9

immediate landscape of the conservation area functions as a water catchment and that a lot of water runs through it. The care and attention shown to the drainage of the site at the height of the property's rebuilding works at the turn of the 20th century is shown in the archive records. All drainage from the Hall and nearby buildings is mapped, with the water from the Hall draining under the former Dutch Garden east towards 'bacteria beds'. Captured water also forms cascades and a pool in the formal gardens, which then runs underground to fill the former boating lake near the South Lodge. Ponds created on the eastern edge of the parkland contribute positively to the quality of the designed landscape, with the southernmost was originally a boating lake. Ms. Badcock explained in her oral evidence:

"It's clear from being on site...that water is a really important part of the attributes of this site and management of water, in particular historically, and today. Numerous drawings and plans show how water was captured and channelled and stored in reservoirs under the stables at Thornbridge and later released through the site to produce cascades in formal gardens, so it has a useful function but is also very much part of the design of water playing through particular areas and is part of the sensory experience. It plays out through the topography of the parkland, the culverts, you can see also topography channels or dips where the water flows on the surface when wet. The boating lake to east side is a formal expression of collecting water and water bodies to provide part of the aesthetic experience of the parkland... It seems very clear to me that the successful management of the parkland involves water. The care and attention shown to that is brought out in those archive records...The [unauthorised] works...at present...don't handle water in any way near way that- there has been no attendant care and attention and it has adverse impact on views and amenity."

28. Further, the rolling parkland character and its topography serve to enhance the grand effect of the Hall situated at the highest point in the landscape, creating a striking view for the visitor on arrival. The formality and grace of the historic driveway as it sweeps gently up the hill is enhanced by the ornate gates, estate railing, walling and decorative urns at either end and the mature trees at the entrance of the Hall (Anna Badcock PoE, Plates 9 & 10).

Driveway A and bund

29. Taking first Driveway A and its bunding.
30. Anna Badcock noted (PoE para 5.7) that the park and historic driveway provide important landscape context as well as the setting for the Hall and the formal gardens/pleasure grounds that surround it. The tree belts around the edge of and within the park provide shelter and privacy to the Hall and the more intimate spaces of the formal gardens. Gaps in the garden tree belt at the cascade (Area H in the Conservation Area Appraisal) and the south lawns

(Area E) provide extensive views from the formal gardens, terracing and the Hall, east and south across the parkland and wider landscape. All the open land is described as ‘important open space’ in the CAA. The new drive runs through, and interrupts, the longest stretch of open land in the conservation area identified as being that important open space (Plate 11).

31. The unauthorised driveway does not sit well in the landscape as it follows every slight rise and fall of the ground surface and it is not level. The negative visual impact is exacerbated by stock fencing and the bund. In Ms. Badcock’s view the quality of the construction is exceptionally poor and contributes to the negative impact. The surfacing, materials and form of the drives, bunds and fencing “...bring both a heavily utilitarian feel to the landscape through overly large agricultural gates” (Anna Badcock, plate 13) and “...unsympathetic stock fencing as well as an unnecessarily urbanised character through the introduction of white lines and urban signage. This can be compared to the simple elegance of the original drive with its estate railings (Plate 9).” The bunds are an incongruous landform completely out of keeping in the parkland conservation area. They bear no relation to the landscape and harm its valued character and historic interest. In low-angled sunlight, when parklands often look at their best, shadows cast by the bunds further exacerbate the harmful visual impact (Plates 11, 12, 15, 20 & 21). In wet weather water is channelled through the gap in the bund at the crossing, resulting in a quagmire (plate 17).
32. Deborah Evans also observed that the bund next to the drive is not planted and is apparently not stabilised, that the levels of the drive are not consistent so that it dips and rises along its length, and that the drainage is inadequate, causing water to stand on or flow across the carriageway and surrounding land.
33. Further, it has resulted in the fragmentation of the park¹⁴:

“It disrupts and fragments it, introducing a poorly engineered structure, as well as a bund, into a previously undeveloped area of the landscape. It also introduces regular vehicle movements into an area of the park where none have been experienced, diminishing the pastoral quality of the landscape. It is crude in its design and execution and strongly contrasts with the narrower, smoother and superior engineering of the historic drive which does contribute to the overall high design quality realised by Marples. It also infers inferior status, being used by general visitors and servicing rather than the higher income generating clients who will continue to use the historic driveway.”

¹⁴ Deborah Evans PoE para 6.5 and 6.6

34. By contrast, when the historic drive was introduced into the park in c1898 to connect a new lodge (South Lodge) with the Hall, as part of Marples' overall design composition:

“...In its simplicity, but sophisticated engineering, the drive complemented the natural landform and added to the drama of the approach and departure and views of the Hall within its gardens as seen from the drive. The drive sat unobtrusively in the landscape enclosed by simple park rail and ornamental gates...it is likely the drive was originally surfaced in compacted gravel which would have been less reflective and more recessive than the later and existing tarmac.”¹⁵

35. The location of the historic drive enabled the land to the east and southeast of the house to be experienced as one continuous expanse of parkland running from the garden boundary to the ponds and park wall. Physical connectivity across this part of the landscape was restricted to the footpath. This experience, and the importance of this experience, is clearly conveyed by historic photographs (Deborah Evans, figs 7a and 7b) illustrating the considered beauty of the designed landscape of Thornbridge Hall.

36. Deborah Evans noted that care was taken to provide suitable drainage for the historic drive. It was “well and deeply trenched” allowing the free-draining ground around to be “clothed with Heather”.

37. As Deborah Evans said in her oral evidence, there is little evident design that has gone into the driveway from a landscape perspective. It cuts across the view from east terrace and is very prominent in the view from the house. It cuts across the view at the end of Beech Walk. By contrast, much thought and expense went into the construction of the historic drive. Driveway A is of an extremely different character.

38. In short, the unconsented drive is crude in its design and execution and contrasts strongly with the narrower, smoother and superior engineering of the historic drive. It does not have the smooth flow of the historic drive. Whereas the historic drive contributes to the overall high design quality of the RPG realised by Marples, Driveway A notably detracts from this.

39. The Appellant claims the unconsented drive follows the line of an access track, but whereas a recent Google Earth image records an informal, unsurfaced and inconclusive route within the landscape, this simply cannot be compared to the formal construction and potential permanency of the unconsented works.

¹⁵ Deborah Evans PoE para 6.3

40. Importantly, Driveway A creates a new internal road running parallel to the A6020. Mr. Folland accepted in cross-examination that cars travelling along this route will be visible and seen in parallel to the A6020 traffic, even though he considers that the bunding itself will not be visible after re-grading works. To have the bunding at all is inappropriate in this landscape, but the point is not one of visibility or otherwise of the bunds, rather the totality of the points made by the Authority's expert witnesses.
41. Whilst the intention in creating the bunding may have been to screen views of the now regular vehicle movements along the unconsented drive and reduce the impact of the drive upon the landscape, the result is the opposite; it draws attention in views from the gardens and park as a low earthwork extending across the park and its height is in any case insufficient to hide the view of the cars (even a small family car is visible, still more delivery vans and coaches). This effect is exaggerated in different weather and light conditions, especially in low winter light when the colour and form of the bunds stand out in stark contrast to the surrounding parkland.
42. Clearly, the Appellant's own advisers consider the height of the bunds to be harmful, hence the proposal to lower them. The Driveway therefore presents an unsolvable conundrum. Whereas views of the A6020 were historically minimised by the park wall and woodland belts, the new unconsented drive brings traffic into the park and the continuous noise and movement during opening hours severely compromises Marples' achievements. The effect will be magnified in Winter when the drive will effectively be experienced as a parallel road to the A6020 above it. Presently, the poor construction of the bund has combined with the effects of the weather to result in erosion along its crest and east face.
43. To be clear, there are no historic bunds in the park at Thornbridge. Where landscaping took place c1898 great effort was taken to create smooth and naturalistic landforms. Unlike the historic drive, and park roads found locally at sites such as Chatsworth House, the bund is also uncharacteristic of this landscape type in this part of Derbyshire. Such routes are generally open to view and often unfenced.
44. It was put to Deborah Evans in cross-examination that to form manmade lakes was part of the original design at Thornbridge, thus the creation of mounds was not inconsistent with that. She responded however that there was great inconsistency in manner and character:

“...the arisings as part of site wide design undertaken by M beautifully melded in to string of lakes. They are not the sharp machine dug constructions we have on site today associated with the car park and bunds. And when I say there is no history of

bunds, I was referring to the character of the modern interventions as is quite clear in my evidence...It is a completely different scale and form of construction and approach...the arisings from Marples' works are so subtle, walking through the landscape today you wouldn't be aware of them.

The bunds are there in the landscape today because of Drive A and the car park. Without those you wouldn't need them. If it is found that the unconsented works are appropriate, and are permitted, then it would be preferable that measures were taken to minimise the harm, but I still stand with the circumstances as they are, that the bunds are an inappropriate form of development in the parklands in their character and extent, and way contrary to the historic character of the parkland that Marples created, in the area of the unconsented works."

Driveway B

45. This driveway is assessed to impinge upon the Root Protection Areas of several trees although it may take some time for the effect on tree health to become apparent, as explained in Dr. Felicity Stout's evidence.
46. It is also a direct physical intervention into the fabric and character of the RPG. A service road has been introduced into the garden area. The removal of planting (trees and shrubs) to facilitate this drive breaches what was previously an intact garden boundary and permanently changes the relationship between the park and the garden. It disrupts the enclosed character of the garden space, alters the function of the shelter belt and has eroded the carefully designed distinction between the formal gardens and the parkland.
47. The unauthorised development in this area has created a cluttered space in an area that was previously lawn (the productive garden in the earlier 20th century). With a new pedestrian access having been opened by the Appellant off the public footpath, visitors are faced with a zebra crossing and extensive views of a service area behind the timber cafe and additional car parking, with wider views of the formal gardens masked (Plate 5).

Car park and its bunds

48. The unauthorised car park is large and steep with inadequate drainage, and enclosed by very substantial soil bunds (up to 3m tall) which again are not planted and do not appear to be stabilised.

49. The car park does not complement the surrounding landform and the scale and again form of the bunds is alien within the landscape; there are no historic bunds within the park and they are counterproductive and ineffective additions to the RPG. They also contrast strongly with the engineering of the terraces to the east. The historic works are very considered; the unconsented works apparently less so.
50. The car park is visible from the Monsal Trail (Anna Badcock PoE, plate 19).
51. It is a potentially permanent intervention into the parkland where there is no precedent for development in that area. Deborah Evans explained that in the early part 20th century it was relatively open, with very little tree planting.
52. The car park (and both unauthorised driveways) have been built across the route of the public footpath (PF No 3 Parish of Longstone), which has a negative impact on the amenity value of the landscape and the experience of crossing the parkland and the conservation area (see Anna Badcock, plate 16). The unauthorised works are particularly noticeable from the public footpath.

Café building and hardstanding

53. Whilst the Appellant states that the building is without foundations and a temporary solution, the hard landscaping created around it is effectively permanent and has therefore changed what was historically an area of the gardens for cultivation or pleasure.
54. As Deborah Evans states, the café building is “robustly utilitarian” in its design. While it shares some of the qualities of the restored glasshouses and service buildings to its west (single storey, the use of glazing, having the character of a working building), it lacks their inherent sense of purpose conveyed through their physical attachment to the area of the historic fruit garden. The new building is isolated within a former area of productive garden, later lawn, and reliant on temporary paraphernalia and fenced enclosures to provide any sense of context. It is a visitor facility and has no horticultural function. It lacks any convincing relationship with the formal Beech Walk or the carefully relocated antique buildings and ornaments in what was an area of pleasure ground or ‘Wild Garden’, a pastoral foil to the formality of the gardens to the south. In fact, the fencing physically fragments this area, preventing free movement across it as intended historically. Its character and immediate environment is confused and at odds with the coherent design of the house, gardens and park.

It is isolated- detached from, and distracting from, the site it seeks to serve, and overall it compromises the character and significance of the RPG.

55. Deborah Evans also noted in her oral evidence that the vegetable garden would not simply have been an allotment, but would have been very well managed. It was functional, but also beautiful to look at.

56. The café and the structures around it can also be seen from the south end of the east terrace in the rose garden area. So again, where there had been an undeveloped but functional landscape in relation to horticulture, there is now an additional structure.

Fences, gateways, stiles

57. The similarly utilitarian agricultural post and wire beside the unconsented drive further emphasises the intervention of the drive into the park. While the park rail beside the historic drive conveys status, this fencing is purely utilitarian, presumably intended to exclude livestock from the carriageway. The modern metal field gates accentuate the utilitarian character of the fencing, and the colourful signage along it introduces clutter and confusion into a landscape that was previously clearly expressed and orientated by good design. It further detracts from the elegant and pastoral character of the landscape and of the historic drive.

Effect of the unconsented works on the other heritage assets

58. The listed buildings are integral to the enjoyment and experience of the RPG as they were located to embellish it. They are all part of the overall composition. They provide structural orientation in the landscape, having been carefully placed. The contribution of the listed buildings to the ornateness of the gardens deliberately contrasts with the relative simplicity of the park where built structures are largely absent. The unconsented works have created a potentially permanent disruption within the park which erodes this intended experience. This is particularly acute where the listed building actually helps facilitate that enjoyment and experience such as the terrace walls and ornaments on the south lawns, the walls and gateway of the Rose Garden and the ornamented east terraces.

59. The unauthorised development has caused serious harm to the setting of numerous listed buildings and structures which lie within the Thornbridge RPG. The setting contributes

greatly to their significance, having been explicitly designed as a parkland setting to compliment the formal gardens around the Hall, and to confer high status on the property, imparting a sense of grandeur and antiquity.

60. The development, by fragmenting the Site and introducing new and alien construction into it, detracts from the special architectural and historic interest of the Conservation Area and so also fails the tests of development considerations 'f' and 'h' (amongst others) in the Conservation Area Appraisal (that important open space should be protected from development, and that proposals which include the restoration of the gardens should be based on thorough historic research).
61. The unauthorised development has seriously harmed the historic interest, character and appearance of the Thornbridge Conservation Area through introducing development into important open space and eroding the integrity of the relationship between formal gardens and parkland. It has damaged an area of scenic beauty within the National Park and harmed the amenity value and the quality of experience of the Conservation Area for footpath users.
62. The Conservation Area and parkland provides the setting for the listed buildings and structures, and the setting makes a strong, positive contribution to the significance of these designated assets.
63. The creation of an impressive sense of arrival was an integral part of the design of the parkland, and this attribute of the setting contributes to the significance of the principal building. The unauthorised works have harmed the sense of arrival and departure. The formality of arrival has been weakened and the visitor now approaches the Hall and gardens from the rear without experiencing the grand entrance structures (walling, urns, statuary) that enhance the grandeur of the main entrance of the Hall, where the eye is also drawn north, along the road and through the formal gates towards Woodlands.
64. A number of important views to the east and south of the property have also been negatively impacted by the unauthorised development. The views from the South Lawns are an integral part of the setting of the Hall, and contribute considerably to its significance. The purpose of these views was to provide a seamless unfolding of landscape from the Hall and gardens, across parkland, to the wider landscape beyond (Anna Badcock, plate 26).
65. The unauthorised drive bund is visible from the lawns, from the junction with the original drive and for over 500m of its length before it turns to meet the unauthorised car park.

Vehicles travelling on the drive introduce new movement into the view. Whilst glimpsed vehicle movements on the A6020 are seen through the tree belt in winter, one of the effects of Marples' design was to minimise the view of the road from the parkland.

66. The former 'Gun Room' door is the only access to the listed East Terrace from the Hall. The bund of the unauthorised driveway (and vehicle movements) are visible in the framed view east from the terrace, over the bowling green, pond and cascade (all listed structures) to the parkland beyond. This view of the bund can also be glimpsed through the Dining Room windows in the Hall (Plate 27).
67. From outside the listed stables, the unauthorised café is seen (Plate 29). Although this view already contains the glasshouses and other working elements of the site, the café materials and extensive use of the utilitarian fencing, pergolas, associated lighting strings and furniture create clutter and complexity that jars with the materials and design of the glasshouses.
68. The two listed temples at the eastern end of the garden were designed to be seen from the front. The temples can now be clearly seen from behind, as one approaches the gardens through the unauthorised disabled access driveway through the tree belt. This harms their setting. The 'eyecatching' view towards the northern temple has been harmed by becoming more complex in the area around the café (Plate 30).
69. The four listed Hermes line the strong linear walk which leads the eye to a framed view of the parkland (Plate 32). Close by, the listed fountain takes the centre of the lawn. When approached from the pool and the rock garden, the Hermes and the fountain now stand against a busy cluttered background rather than a green lawn; their visual definition and formality have been detrimentally eroded (Plate 31).
70. The materials and finishes of the unauthorised hard surfacing and café do not respect the character of the former productive gardens, which were designed to be seen and would have played their role in demonstrating the wealth and aspirations of the owner. Approximately 1000m² of tarmac has been introduced and the double gateway, with adjacent wooden pergola and fencing introduces a low quality and incoherent character to the gardens.
71. Physical and visual harm is exacerbated by the form, materials and poor quality execution of the unauthorised development which is unsympathetic to this designed and designated landscape and its historic estate landscape character.

72. There may also have been serious harm to unrecorded archaeological remains, which could have resulted in total loss- but this cannot be established because the development has already taken place.

Do the proposed works solve the situation?

73. The works proposed as part of the ground (a) appeal by way of mitigation and remediation will not sufficiently mitigate the harm caused and the development has no ‘clear and convincing’ justification. Through the reprofiling, new planting and a new boundary treatment, the works would continue to draw attention to themselves, accentuating their negative effects on the RPG. The unconsented works would remain unacceptable in landscape and visual terms. Were planning permission to be granted, the effect of the unconsented works upon the significance of the RPG would remain and, importantly, be compounded and increase as Thornbridge Hall is developed. There would be harm to the special interest of the RGP. Although the harm is relatively contained within the area of the site (and designation), as the urban character and visual prominence of the unconsented works contrasts so strongly with the comparative naturalism of the park and the architectural formality of the formal gardens, its impact upon the significance of the RPG is considered to be high.

74. In putting forward the remediation proposals, the Appellant plainly recognises that harm has been caused to the special interest of the RPG, and this is clear at least from the written evidence of Mr. Folland.

75. In relation to the proposed mitigation Deborah Evans observed in her oral evidence:

- (1) Attenuation pond- this is obviously because of Driveway A. If that was not there, it would not be needed. It introduces another feature into the historic landscape, an additional feature to the Marples creation. The Authority is not persuaded that the landscaping around it is speaking to the character of the designed landscape, particularly the character of the boating lake to the South with its very carefully considered rockwork.
- (2) Anna Badcock agreed that the pond is unacceptable; it is sited in the centre of the parkland, adjacent to the historic boating lake, and within one of the key views from the Hall and South Lawns across the parkland, and so would be harmful to the views and the relationship between the historic ponds, historic drive and the Hall. The proposed filter drains and attenuation pond would also have an additional impact on any archaeological features that exist below ground. These areas have not been fully evaluated through

geophysical survey due to the proximity of wire fencing which would have distorted the results.

- (3) The bunds work in the car park- the Appellant has obviously had second thoughts about the character of the bunds as they stand, which is now seen to be unsatisfactory. The Barnes Walker proposal to soften and realign and introduce woodland planting is 'making the best of a bad job'; height is still needed to screen the views of the parked cars. The associated planting is now depended upon to create filtered views of the car park from the surrounding landscape- the screening of vehicles is dependent upon the proposed tree and shrub planting. The bottom line is that the car park cannot be hidden. Sections H/H1, G/G1, E/E1 and F/F1 show the roofline of a standard family saloon car will remain visible above the bunds. Taller SUVs and minibuses will, obviously, be more visible. Intervisibility will remain even in winter despite the small percentage of evergreen shrubs (holly) and Scots pine proposed within the planting. Thus, the proposals may mitigate the height and form of the bunds but they cannot reduce the overall effect of the unconsented works upon the RPG.
- (4) The proposal gives the sense that the woodland edge of the park is being extended into the landscape. If that worked well, there would be limited views of the car park, but it would still be seen at close quarters, and certainly one would be aware of the planting having extended out into the landscape.
- (5) Further, the type of trees that have been proposed for inside the car park itself, do not have the aesthetic character of the trees planted in the late 19th and early 20th century, so this would be introducing more urban character ("mass-produced amenity trees") into a *rural ornamental* landscape. Marples would not have used standardised forms. The use of native species ignores the ornamental character of the parkland – which contributes to its significance.
- (6) It was put to Deborah Evans in cross-examination that the creation of woodland was not out of character with the RPG, but she pointed out that the woodland has historically been kept *very much to the edges*. Given size of the car park, being quite large, there would be an interjection into the car park which would be exaggerated close to the boundary. Therefore there would be a notable change in the designed character of that landscape.
- (7) The proposal to enclose the bunds in replacing the fencing beside Driveway A would appear odd in terms of the historic character, and it is unclear how this would work from a maintenance perspective.
- (8) The grass mixes are quite standard, but it is untested how they would behave in this situation.
- (9) The bunds beside the drive, would have more sympathetic grasses, but there would still be harmful change, they would still be legible within the wider landscape and particularly

in view of the proposed estate rail running beside the drive. That introduces a note of confusion into the understanding of the landscape because it would then apparently have a similar status to historic drive and read as the same thing.

(10) Overall this remediation is not persuasive. The unconsented drive is simply too different in character and construction to the historic drive to be anything other than intrusive within the RPG. It would remain two-lane whereas the historic drive is single-track with passing places. The unconsented drive still requires a bund to partially screen it, and vehicles moving along it, whereas the historic drive was created to be part of the overall design experience of the parkland both in use and in the view. Even with remediation, the unconsented drive would continue to disrupt and fragment the parkland as an obtrusive construction with alien earthworks and associated vehicle movements.

76. Section 7 of Deborah Evans' PoE deals in detail with the proposed mitigation and the inspector is respectfully referred thereto.

77. Deborah Evans also spoke from her extensive experience in offering her observations to the inquiry about the visitor infrastructure (including car parks) at other sites, such as Chatsworth and Waddesdon. In those cases, the process for managing historic change was followed.

78. Deborah Evans agreed in cross-examination that national policy of course does not "turn its face" against all change to designated heritage assets or development within their settings, but emphasised that the key is *managing* change properly so that significance is not harmed: "It's how it is done that is the point...it's getting your ducks in a row...it can all be explored before the spade has been put in the ground."

79. Asked about whether the succession tree planting scheme was a benefit, she agreed but advised that:

"...it has taken an awful long time to happen. It is standard good management to ensure tree succession. And there are many opportunities for grant aid which are not tied to development. In my experience landowners are often instrumental in helping to shape those agreements. And one of easiest things you can do in stewardship is tree planting. So in a 20-year period there has been none, and now it is connected to a development proposal, not freely given. There is a mechanism to secure it yet, but it is not the only mechanism, and quite an extreme way [of proceeding]. And it is only for 11 trees."

80. The heritage harm to the assets within the Site has been correctly judged, as explained by Deborah Evans and Anna Badcock, to be at the highest end of the range of ‘less than substantial’ harm. The Gardens Trust and Historic England concur. The mitigation proposals so not significantly move the needle. The public benefits on which the Appellant seeks to rely, however well-intentioned, do not outweigh that harm. All of the community benefits relied on could in fact be provided or achieved, in the current/proposed or in a suitably modified form regardless of the unauthorised development and so should not be given any significant weight such as to outweigh the heritage harm. In particular, the parkland walk and succession tree planting are apparently independent of the unauthorised development and could be undertaken anyway.
81. Specifically in relation to the Conservation Management Plan that is now proposed as a public benefit to be weighed against the harm that has been caused, the inspector will recall the Authority’s observation that this could have been undertaken at any time, rather than in an attempt to justify the unauthorised development. Had the Plan been developed in *advance* of development as the Authority would have expected, its contents could have helped inform the works. It is not appropriate that a Conservation Management Plan is proposed only as a condition of permission; as Anna Badcock explains, such a document should be produced well *before* any designs for new development are even drawn up, so that areas of significance and sensitivity can be identified as well as areas where potential change could possibly be accommodated on a site.

Damage to trees

82. The Authority does not repeat what was said in opening on this subject. The inspector is referred in full to the compelling oral evidence of Dr. Felicity Stout, supplementing her written proof of evidence. A key point to note is that it is accepted by the experts for both parties that damage to the trees (signposted by Dr. Stout) as a result of the unauthorised development will not necessarily be apparent yet. Further, that whole tree failure is a complex topic. What is clear is that disturbance has taken place within the ‘precautionary’ zones and indeed within some of the ‘prohibited’ zones of trees identified by Dr. Stout.
83. Dr. Stout did not, though, accept (as the Appellant considered her to have done in cross-examination) that a compensatory planting scheme would overcome her concerns. That was a significant misunderstanding on the part of the Appellant. As Dr. Stout clarified in re-examination:

“No, it is not a like-for-like replacement- you could use CAVAT or any other asset value measuring, and that would generate a monetary value of the trees that have been compromised, then you would plant to the extent of that, so 50,000 for 50,000, whether that would be 56 trees or not is not the point really, to get the value back of what’s been lost. What has been offered would not overcome the damage. What’s been offered is 11 parkland trees, 10 car park trees, then some woodland planting on bunds. It remains to be seen through something like a CAVAT assessment how much should be put into a replanting scheme.”

Archaeology

84. Similarly, the Authority does not repeat what has been said in opening on this issue. The inspector is respectfully referred to the note signed by Tony Hanna and Anna Badcock in which they agree that the unauthorised development has removed, truncated or damaged buried archaeological deposits to some degree, albeit to what degree it is not possible to say given that the works took place without prior controlled archaeological evaluation and no plans for them appear to exist.
85. Planning permission for the works, even with the proposed mitigation, should not be granted. The development is clearly contrary to policy, as set out in the written evidence of the Authority’s witnesses (Core Strategy policies GSP2, GSP3 and L3 and Development Management Policies DMC9) and as explained in his oral evidence by Andrew Cook. The development also conflicts with the relevant provisions of the NPPF as set out in section 9 of Anna Badcock’s written evidence.
86. Many third parties who spoke seemed to be under the misapprehension that Thornbridge would have to “shut down” (speakers on Day 1 of the inquiry refer). Clearly, that is a misrepresentation of the requirements of the enforcement notice. No such outcome is required.

The ground (c) appeal

87. This appeal turns on whether or not the parkland at the Site is part of the curtilage of the main listed building ie the Hall.
88. The Authority maintains its as set out in the written evidence of Andrew Cook and Anna Badcock.

89. It is submitted that the land in the RPG is clearly integral to the Hall. For the reasons set out above, it is designed parkland and not, for example, merely adjacent agricultural land. The relationship between the parkland and the Hall is very strong. As Mr. Cook put it "...you cannot really divorce one from the other."

90. Anna Badcock strongly agreed:

"The parkland, gardens and Hall completely interrelated. The design of each influenced each other. Marples was clear, when buying the property, that he was considering the parkland as well as the Hall. They are completely interrelated. We are not in agreement that the café area wasn't part of the gardens. It may well have been ornate, with part intended to be shown off as the glasshouses were, and formed part of the design intention and aspiration to show off craftsmanship and skill in horticulture. It may have been vegetables rather than fruits, but we consider it part of that formal garden experience.

It is not appropriate to consider Chatsworth, it's very much a site by site question, this is a much smaller landscape, and proportionality and scale are really important. Here the parkland is seen from all parts of the Hall.

And at Chatsworth the roads aren't fenced, so I am not aware of any comparable places where [the Authority has] acted differently.

The Appraisal of 1996 is a made decision, that's a formally adopted document, it has gone through public consultation and carries weight."

91. In response to the inspector's question as to whether she would consider the parkland at Thornbridge to be intimately associated with the Hall, Ms Badcock considered it very intimately associated, both through the design, and due to physical features as well: "...the boundaries are porous, they are designed to be moved through, not hard barriers." The later alterations done by various parties such as Boot had not eroded those links and that intimate associated: "The structure is still very much there- Marples' original structure."

92. The legal framework is as follows.

93. Whilst the Appellant argues that the fences, including gateways and stiles, are not within the curtilage of or surrounding a listed building, that none of the fences, nor the café, are within the formal garden, and that listed building consent has not previously been required for development in that area, and that they would be permitted development within Class A of Part 2 of Sch 2 to the GPDO, the Authority disagrees.

94. Class A ‘gates, fences, walls etc’ of Part 2 ‘Minor Operations’ of Sch 2 to the GPDO 2015/596 provides at para A.1 at sub-para (b) that it is not permitted development if the height of the fence exceeds 2 metres and sub-para (d) provides that the development is *not* permitted by Class A *if it would be development within the curtilage of a listed building*.
95. The inspector will therefore have to make an assessment as a matter of fact and degree as to whether the land on which the fences, etc has been constructed should be considered to form part and parcel of the building to which it was related, such as to be its ‘curtilage’.
96. The many authorities relevant to the issue of a curtilage were considered by the Court of Appeal in ***R (Hampshire CC) v Blackbushe Airport Ltd*** [2021] EWCA Civ 398, affirming the judgment of Holgate J. It was noted that Parliament had never defined the word and that whilst it was to be given its ordinary and natural meaning, that meaning was not completely provided by the dictionary. The size of the land was relevant, but that might vary with the nature and size of the building (and even then proportionality might not be definitive).
97. The Court noted that in ***Methuen-Campbell v Walters*** [1979] QB 525 Buckley LJ had provided as good an expression of the concept of curtilage as one was likely to find; the test required the land to be *so intimately associated with the building* as to lead to the *reasonable conclusion* that the land was *part and parcel of the building*. That approach was not the same as treating the land and building together as forming part of a single unit. The conclusion in that case that the land and building together constituted ‘an integral whole’ was the consequence of applying the ‘part and parcel’ test, and was not another way of articulating that test.
98. The test is not whether the building could function without the rest of the land, or whether the land was necessary for the functioning of the building. Nor is the test whether the land and the building together formed one part of an operational unit or whether they fell within a single enclosure. The expression ‘part and parcel’ was figurative and meant that a reference to the building would be *understood to include, or extend to*, that other land. The authorities illustrated different applications of the same test to the facts and circumstances of specific cases and the curtilage in a given case was a question of fact and degree. It was noted that the approach in ***Methuen-Campbell*** had been adopted and followed in all the different statutory contexts in which the concept of ‘curtilage’ had been considered.
99. The fences, gates and stiles in this case have been placed within the curtilage of the Hall and are not permitted development and thus constitute a breach of planning control.

The ground (f) appeal:

100. Whilst the Appellant argues that the harm resulting from the breach of planning control could be remedied by ‘lesser steps’ than the requirements of the enforcement notice, such as granting a temporary permission for the café building and the undertaking of remedial work the large bunds, in the Authority’s view the steps required in the notice are consistent with the purpose of remedying the breach of planning control and the injury that it has caused, and are not excessive. The lesser steps referred to by the Appellant would not remedy the breach and in any event are relevant instead to the ground (a) appeal.

The ground (g) appeal:

101. Given that the unauthorised works appeared in only 2 months, it is considered reasonable to require their removal within six. It is not accepted that the works could not from a practical point of view be removed within that time.

Conclusion:

102. The inspector is respectfully requested to dismiss the appeal on all grounds.

Kate Olley
Francis Taylor Building
8th December 2022