

Appeal against enforcement notice reference ENF: 21/0034
Thornbridge Hall and Estate, Ashford in the Water, DE45 1NZ

for Mrs Emma Harrison CBE

PINS ref: APP/M9496/C/21/3279072

LPA ref: ENF: 21/0034

CLOSING SUBMISSIONS ON BEHALF OF THE APPELLANT

Glossary:

NPA	National Park Authority
KS	Kathryn Sather
NF	Nic Folland
BA	Bill Anderson
CP	Caroline Payne
KA	Kate Olley
DE	Deborah Evans
AB	Anna Badcock
FS	Felicity Stout
AC	Andrew Cook

INTRODUCTION

1. The nature and extent of the supportive evidence presented by members of the public to this Inquiry was, in our view, unusual and unprecedented for a EN appeal. Not a single member of the public attended the Inquiry to object. The support offered in writing is even greater¹, with a wide range of people from different backgrounds with different challenges offering their strong and often emotional backing to the Appeal Scheme. We do invite the Inspector to read all of the messages but the heartfelt and eloquent

¹ See the 95 letters of support in CP App EP3.

introductory paragraphs of an email from Francesca Bethell-Collins encapsulate what Thornbridge Hall now has to offer and how many people view it now that it has become more accessible².

In Support of Thornbridge Hall from an Autistic visitor and volunteer.

To Whom it may concern,

Thornbridge Hall is a rare species, like an exotic plant living exuberantly in the hostile tundra. It is a post-Covid survivor with its roots in the historical past and its branches reaching out into the future. Right now, it is flowering brightly. Do not stamp it down. Thornbridge Hall and all it stands for deserves not to wilt and wither. It deserves to thrive.

Every time I ask someone to visit Thornbridge Hall with me, they sense a place oozing its welcome. Visiting the café feels like coming home. Home is always there. Seven days a week. You have to go there to understand this.

2. Ms Bethell-Collins' connection with Thornbridge Hall is far from unique. As we heard at the Inquiry, Thornbridge is prescribed by a psychiatrist to improve his patients' mental health³; Thornbridge is the only public place where a dementia sufferer feels calm⁴; and it is where someone with complex mental health needs feels at home⁵. She expressly remembers Emma Harrison writing a little note saying "my home is your home". Another supporter described regaining social contact following Covid at Thornbridge⁶. It is our strong submission that the compelling benefits that emerge from the many letters of support would not have arisen without the development the subject of the EN. There *may* have been other ways to bring forward some of these benefits but the NPA have not identified what they would comprise.
3. Mr and Mrs Harrison accept entirely that they ought to have applied for planning permission for the new driveways, car park and café at Thornbridge Hall but it is obvious that the works were carried out with a deeply felt desire to open up their home, gardens

² See CP App p.142.

³ See the evidence of Jonathan Mayo, Consultant Psychiatrist, who offered his view to the Inquiry.

⁴ Deryl Sharp

⁵ Amanda Wragg.

⁶ Roger Langdon.

and estate to the wider public so that as many people as possible could enjoy them and to ensure a financially independent future for the historic assets. It would be wholly inappropriate to ascribe any other motivation. Moreover, an accumulation of unusual circumstances, which included the Covid-19 lockdowns and unsuccessful attempts to engage with the NPA as to the future of the Thornbridge Estate caused them to proceed with the development.

4. These Closing Submissions will be structured so as to address the following Grounds of Appeal:
 - a. Ground (c) in relation to the erection of fences;
 - b. Ground (a) by which the Appellants seek planning permission for the retention of Driveways A and B, the car park and café;
 - c. Ground (f): the requirements of the EN are excessive; and
 - d. Ground (g) by which the Appellants seek more time to comply with the requirements of the EN.

Ground (c)

5. This is a narrow point indeed. Section 3 (vi) of the EN refers to operational development consisting of the erection of fences, including gateways and stiles within the curtilage of a listed building. Unhelpfully, the EN fails to specify which listed building is relevant or which gateways and stiles are the subject of the enforcement action, although it now appears that the building in question is the Hall. Additionally, the EN does not attack the fencing to the south of Driveway A, which can remain whatever the outcome of the Appeal.
6. There are two sub-issues:
 - a. Whether the fences, gateways and stiles are within the curtilage of a listed building. If they are not, they would be permitted development by virtue of Schedule 2, Part 2, Class A of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended). Planning permission is not therefore required;
 - b. If the fences, gateways and stiles are within the curtilage of a listed building then it is accepted that planning permission would be required for them. As such, for the

same reasons outlined below on Ground (a), planning permission should be granted for this operational development.

7. The latest guidance is the CofA's judgment in *Hampshire CC v Blackbushe Airport Limited* on the question of curtilage. To be within the curtilage of a building, 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 (judgment §138). The NPA's position appears to be that the gardens and parkland all fall within the curtilage of the Thornbridge Hall. This is precisely the argument rejected in *Blackbushe Airport* but precisely the case that the NPA continued to press at the Inquiry despite the relevant judgment being brought to their attention.
8. As was apparent from the Round Table Session, the operational development in question falls well outside the properly defined curtilage of Thornbridge Hall and is therefore permitted development.
9. If that submission is rejected, it is difficult to see how the fences, gateways and stiles can possibly be objectionable in planning terms, especially given the fact that (i) the fencing to the south of Driveway A is not covered by the EN; and (ii) fences, gateways and stiles are all entirely characteristic of parkland. Indeed, the NPA did not bring any substantive evidence to bear on this issue.

Ground (a): the planning merits

10. The written evidence presented by both parties is detailed and voluminous. We do not propose to rehearse the evidence in detail but rather to address the salient points by reference to the key propositions that have always formed the basis of the Appellants' case. Similarly, the Inspector has had the advantage of detailed site visits and will therefore not welcome an explanation of what she saw (or did not see) during these visits.
11. Thankfully, despite the numerous local plan policies cited in the EN, there is a single issue under Ground (a): whether the less than substantial harm caused to the designated heritage assets is outweighed by the public benefits relied upon by the Appellant. As AC accepted in XX, if the Inspector considers that the 'heritage balance' weighs in favour of the Scheme then planning permission should be granted. This was a sensible concession given that many of the subsidiary issues (including the impact on trees and landscape) are bound up

with the heritage impact. It is now common ground that there are no other freestanding reasons for dismissing the Appeal, including the NPA's initial claim that there will be harm to the National Park *per* §176 NPPF.

The NPA's Approach

12. The Inspector will have noted the difference in approach between the Appellants' expert team and the witnesses produced on behalf of the NPA. We accept that the Inspector will be the ultimate arbiter but she will need to be guided by the expert evidence. In this regard, it is necessary to shine a light on the way in which the NPA have dealt with the EN and the subsequent appeal, especially in relation to the key issue of heritage impacts.
13. **First**, AB is the Cultural Heritage Manager for the NPA and visited the Appeal Site in April 2021 prior to the issue of the EN (AB XX). She was involved in the formulation of the EN, which alleged 'substantial harm' to the designated heritage assets. The NPA's position apparently changed following input from Historic England ("HE") and receipt of the Appellants' Statement of Case. Nonetheless, it is notable that AB's initial view was that the creation of two driveways, a car park and a café would lead to 'serious harm to the assets' significance' and appeared initially to ignore the fact that the existence of substantial harm is a 'high test'⁷. It is apparent AB's initial assessment (supported by AC) of substantial harm has coloured her approach to the Appeal Scheme and, as such, her evidence should be given reduced weight.
14. **Second**, for a LPA that has allowed significant development at Chatsworth House, the overly officious and restrictive approach to the Appeal Scheme does not sit well. Indeed, the difference in the way in which the NPA have treated the Appeal Scheme and the Chatsworth proposals to reconfigure and extend the main visitor car park and a new access road through a Grade I RPG is striking⁸. It was extensive, and qualified as 'major development' the National Park for which 'exceptional circumstances' must be demonstrated and where it must be shown that development is in the public interest⁹. That

⁷ *London Historic Parks and Gardens Trust v Minister of State for Housing* [2022] EWHC 829 (Admin), at §35 and 37.

⁸ See CP App p.375 for a description of the extent of development, including ground works, proposed by the Chatsworth Estate. It was extensive and qualified as 'major development' the National Park for which 'exceptional circumstances' must be demonstrated and where it can be demonstrated that development is in the public interest.

⁹ NPPF §177.

stringent test does not apply here¹⁰. Nonetheless, despite the loss of part of a RPG, the removal of 35 trees and less than substantial harm to the RPG, Officers considered that the public benefits (including “improvements to the visitor experience of those visiting Chatsworth”) would outweigh such harm¹¹. We do not suggest that the Appeal Scheme is identical to the Chatsworth proposals. On the contrary, the significance of the heritage assets and the level of impact were much greater in the case of Chatsworth. Nonetheless, one could forgive the Appellants for feeling that they have been treated very differently from the jewel in the National Park’s crown. Confidence in the planning system depends on consistency in decision taking; like cases being assessed in a similar way. It is abundantly clear that the NPA have taken a diametrically different approach to the two schemes.

15. **Third**, the NPA’s initial stance contrasts markedly with the way in which NF was XXed by KA. At one point, it was put to NF that the NPA did not object in principle to a new access driveway; rather it was the form and design of Driveway A that was problematic. If that is truly the NPA’s position then it reveals a striking level of inconsistency. In any event, for the reasons that were explored in evidence it will be eminently possible to mitigate the harm to the heritage assets and to the landscape through the measures identified by the Appellants. A further shift in position emerged during XX of AC in which he pointed out that the NPA do not object in principle to provision of a café for visitors to Thornbridge.
16. **Fourth**, both AB and DE substantially overplayed the significance of the designated heritage assets and therefore exaggerated the harm. AB introduced the concept of ‘nested’ or overlapping assets¹² and concluded that the significance of the landscape “is greatly increased by the sum of its parts of these nested designations”¹³. It became apparent during XX that AB had elevated the collective significance of the various heritage assets, which necessarily had the effect of increasing the level of harm. As KS eloquently explained in XC, there is no basis in policy or guidance for AB’s or DE’s arguments:
 - a. There is nothing in the NPPF or PPG which refers to ‘nested’ assets or to elevating the value of heritage assets if a number of such assets overlap;

¹⁰ See Planning SoCG.

¹¹ OR §135 – 136, CP App p.397.

¹² AB Proof §2.6.

¹³ AB Proof §10.2

- b. The only piece of guidance that uses the word ‘nested’ is the HE guidance on setting¹⁴. The guidance refers to the self-evident fact that historic parks and gardens can include many heritage assets, some of which overlap¹⁵. However, the introductory sentence states that “All of the following matters may affect considerations of the extent of setting ...” In other words, the concept of ‘nested’ assets is only relevant to the *geographical* extent of setting and not – as AB suggests to some sort of enhanced value;
- c. DE makes a similar error in asserting that the ‘special interest’ of the RPG is magnified by other statutory designations such as the National Park, listed Hall and Conservation Area¹⁶. The implication that the significance of the RPG is elevated due to its relationship with other statutory designations is simply not appropriate or justified;
- d. AB was also ‘double counting’ in suggesting that the presence of the listed Thornbridge Hall somehow increases the significance of the RPG and vice versa. HE’s RPG Selection Guide¹⁷ advises that “*if there is a contemporary house, this will almost certainly strengthen a case for designation, or possibly designation at a higher grade. So too will the presence of garden buildings and structures such as walls and steps.*”¹⁸ It is inconceivable that HE would have ignored the presence of Thornbridge Hall when designating the Gardens and Parkland as a RPG. Thus, the historic relationship between the RPG and the listed Hall will have already been taken into account in the decision making process¹⁹. There is no justification whatsoever for elevating the assets’ significance in the way that the NPA have done;
- e. Looking at the same issue from the opposite direction, when making decisions to list various buildings or structures, HE take into account the extent to which the building contributes to the architectural or historic interest of any group of buildings of which it forms part, generally known as group value. The Secretary of State will take this into account particularly where buildings comprise an important architectural or historic unity or a fine example of planning (*e.g.* squares, terraces or model villages) or where there is a historical functional relationship between the buildings. If the significance is enhanced then that will lead to a higher grading. So,

¹⁴ CD4.06.

¹⁵ CD4.06 3, §8

¹⁶ DE Proof §7.19.

¹⁷ CD4.08

¹⁸ *Supra* at §3.2

¹⁹ See CD6.01 (RPG Listing) in which there is a detailed description of the “Principal Building”, Thornbridge Hall.

to the extent that the existence of the Gardens and Parkland were relevant to listing of Thornbridge Hall, they have already been taken into account;

- f. DE also appears to increase the value of the Thornbridge RPG by reference to other RPGs found within the National Park²⁰, suggesting that its ‘rarity’ and relationship with other RPGs is somehow relevant. It is not. There is nothing in HE’s guidance (including the RPG Selection Guide) which suggests that the significance of a RPG is somehow informed by the number of other RPGs in the same planning authority area. The fact that Thornbridge is in the National Park along with Chatsworth and other RPGs is wholly irrelevant to its status as a RPG in its own right.

17. The evidence of DE and AB should be contrasted with that of KS. KS’s written and oral evidence revealed a deep understanding of the historic evolution of Thornbridge Hall, its gardens and estate. Her methodology, whilst produced in a narrative style, was transparent and the terms used by KS were defined so that the evidence was easy to follow. It followed recognised approaches set out in the IHBC Principles of Cultural Heritage Impact Assessment and ICOMOS. Notably, when questioned, neither AB nor DE provided any methodological criticisms of KS’s work. Under XX, KS was able to defend her professional judgements robustly and effectively.

18. We have no hesitation in inviting the Inspector to prefer the expert heritage evidence presented by KS to that produced on behalf of the NPA.

(1) The development subject to the EN does not cause harm to the designated heritage assets within the Appeal Site.

19. In *City and Country Bramshill Ltd v Secretary of State for Housing, Communities and Local Government* [2021] EWCA Civ 320 it was confirmed that §202 NPPF allows for an internal heritage planning balance: *i.e.* comparing the heritage harms with the heritage benefits. If the net outcome is that there is no heritage harm then the provisions of §202 NPPF are satisfied: that was agreed and accepted by DE and AC in XX.

²⁰ DE Proof §7.19.

20. In the present case, the NPA consider that any change will be harmful to the Hall, the Gardens and the Parkland. Therein lies a fundamental misunderstanding of the policy position, which is concerned with conservation rather than preservation in aspic. DE accepted that the overarching policy objective of conservation is defined in the Glossary to the NPPF as “*the process of maintaining and managing change to a heritage asset in a way that sustains and, where appropriate, enhances its significance*”. This is a broadly positive statement, which reflects the self-evident point that heritage assets evolve. Often that evolution forms a key aspect of their historic interest.
21. The history of Thornbridge Hall and Estate is one of evolution not stasis. The proposals before the Inspector are simply an example of the way in which heritage assets respond to different demands and adapt to change. By way of illustration, reference can be made to the Gardeners Chronicle article introduced by the NPA²¹. Both DE and AB set great store by this article and by the apparent vision that George Marples had for Thornbridge despite there being no drawings or plans available. In any event, the Marples ‘imprint’ is simply an example of how one owner managed the heritage assets. The article records that Marples made some substantial interventions: removal of field boundary walls, “*plantations laid out, and ornamental lakes made, and an approach road from the Bakewell side was constructed. The work of constructing the [l]atter, which is about 700 yards in length, proved a heavy task. To obtain long even grades, cuttings, in some places 12 feet deep, had to be made, and many thousands of cubic yards of soil, boulders &c, to be removed.*” The original access to Thornbridge Hall was off Longstone Lane, immediately to the west of the Hall, where access still exists. Marples introduced an entirely new and engineered access and driveway.
22. The amount of land raising and construction carried out by Marples was plainly in excess of the Appeal Scheme yet the NPA criticise the Appellants for having their own view about the future of Thornbridge and hold up Marples as some sort of visionary. We do not say that works of the order of magnitude carried out by Marples are automatically justified but rather that the Inspector should have regard to the fact that Thornbridge has evolved in response to the particular interests and desires of incumbent owners and the Harrisons should be deprived of the same opportunity, provided that sufficient heritage and other benefits are secured.

²¹ CD8.21

23. It is similarly important to consider the mitigation proposed by the Appellants. It is the residual effect that matters. In assessing the development, the NPA have paid scant regard to the proposals for re-grading the bund on the northern side of Driveway A, the re-profiling of the car park bund, the re-design of the car park surface treatment and proposal to remove the painted lines along Driveway A. Similarly, although Historic England conducted a site visit, their officers did not take account of the mitigation proposals so their view that less than substantial harm has been caused relates to unmitigated harm²². We know that the Inspector will take account of these mitigation measures when determining whether there is any net harm to the designated heritage assets.
24. The Inquiry heard considerable evidence on the significance of the various designated heritage assets and the claimed impact of the Appeal Scheme. However, for the reasons already outlined above the evidence presented by the NPA should be given reduced weight. Moreover, once one strips out the references to ‘nesting’ and the collective value of the heritage assets being greater than the sum of their parts, we suspect that there would be relatively little difference between KS’s assessment of significance and the NPA’s.
25. Taking each of the elements of the Scheme in turn, we invite the Inspector to make the following findings in relation to the impact of the Appeal Scheme.

Café

26. The form and appearance of the café building and associated landscaping works does not have any adverse impact on the settings of the heritage assets in the vicinity. Although clearly visible from the vicinity of the Fountain and the two Temples, the café is not prominent or dominant in the landscape, and the café does not compete with or distract from the listed garden structures in the vicinity. The form and appearance of the café is also not prominent, dominant or conspicuous within the settings of the listed buildings to the west; the Hall, Stable Building and North Lodge, as it can only be viewed in part, and in conjunction with the other ancillary service buildings in the area, such as the glasshouses.
27. Indeed, the fact that the NPA granted (and renewed) planning permission for a tennis court and pavilion on substantially the same plot as the café in 2005 and 2010. The OR observed that:

²² CD4.02

“Subject to minor design conditions there are no objections to the timber clad pavilion which when weathered will have a natural weathered grey appearance. The proposal will not have any adverse impact upon the character of any of the listed structures and buildings on the site or on the Conservation Area.”²³

28. It would be inconsistent if one were to conclude that a building of a similar scale and design in the same location was entirely acceptable in 2005 and 2010 yet the understanding of the historic environment has changed so much in the intervening years that it is now unacceptable.

Driveway B

29. The form and appearance of Driveway B, which is a paved service track, does not have any adverse impact on Thornbridge Hall and Stables or on the North Lodge. Neither does the form and appearance of the paved pre-existing service track have any adverse impact on the group of listed garden structures to the west and south of the service track. The service track is not prominent, dominant, or conspicuous within the settings of the heritage assets, and does not compete with or distract from the heritage assets. The black tarmac paving does not damage the settings of the heritage assets. There is some visual permeability from the track through the wooded area to the rear elevations of the two temples, however, the track is separated from the backs of the temples by mature trees, and the paving of the pre-existing track does not have any adverse impact on the setting of these heritage assets.

Driveway A

30. The form and appearance of the new access drive, with the new fencing and the proposed alteration to the bund, has a slight adverse impact on the setting of the Hall and the elements of the southern boundary of the listed garden such as the terraces. Although the soil of the bunds is visible, the new access drive is not prominent or dominant within the parkland when viewed from the Hall or the garden terraces. The drive does not compete with or distract from the setting or significance of the Hall and garden. Although a lengthy new feature, the low level of the drive, when viewed within the wider parkland landscape,

²³ KS Proof p.55.

does not diminish the understanding of the Hall and garden setting within a parkland. The black tarmac drive with light green paint to the centre line, is an obvious change within the landscape but from the terrace and gardens is it concealed behind the bund.

31. Cars can be seen from this vantage point but it should be noted that (i) views of cars are not inherently harmful; (ii) are already present in view from the Hall and RPG given proximity of the A6020 to the boundary of the parkland; and (iii) cars will continue to present within the setting of the Hall through use of the western drive.

32. Driveway A introduces a new structural element into the landscape of the park, which will impact a number of land parcels on the east side of the Park much as the late 19th century drive from the South Lodge would have impacted that area of the parkland in its time. The new drive is a noticeable change within the landscape, but such a drive is not out of place in a parkland setting, as the planning permission at Chatsworth House demonstrated. As a new element, the new drive is assessed as a slight adverse impact on the character of the registered park and garden, but at a middle level of adverse impact, which correlates to less than substantial harm, at a level in the middle of the range of less than substantial harm.

Car Park

33. The Car Park is quite a small parcel of the wider parkland but the impact of the construction of the car park on the character and appearance of the Conservation Area is slight adverse, but on the lower end of slight adverse as there is an existing car park within the Conservation Area, and the area is not considered particularly significant within the Conservation Area.

34. Although the Car Park and its bunding constitutes a structural change to a parcel of land within the wider park, including to a historic lynchet feature of the earlier field pattern, the affected area is not a key aspect of the landscape nor does it contribute to important views. Although he was giving landscape evidence, one can recall NF's evidence that the current location of the Car Park is probably the most suitable location for a car park. NB – at one point during the Inquiry it appeared that the NPA do not object to the principle of a car park.

35. We feel confident that the conclusions of KS remain intact despite being XXed at some length. Consequently, the unmitigated impact on the various designated heritage assets is as follows:

- a. **Conservation area:** slight adverse, equating the lower end of less than substantial harm;
- b. **RPG:** less than substantial harm towards the middle end of the scale;
- c. **Listed garden structures:** neutral, or no harm;
- d. **Thornbridge Hall through development in its setting:** low end of less than substantial harm.

(2) There will no net heritage harm.

36. The heritage impacts of the development, proposed remedial works and associated proposed works have been considered in a balanced way to determine the overall heritage impact of the entirety of the works on all of the heritage assets. The overall heritage impact of the development, proposed remedial works and associated proposed works is neutral. That is not to say that there are no adverse impacts, but that on balance the benefits outweigh the adverse impacts. Therefore, overall, the development, proposed remedial works and proposed associated works do not cause harm. The requirements of §202 NPPF and s.66 LBA 1990 are therefore met.

37. If, contrary to the Appellants' primary position, the Inspector concludes that there is some residual harm, the public benefits (including heritage benefits) far outweigh such harm. The public benefits will be considered below.

(3) The level of harm to archaeological assets is low.

38. Mr Hanna concludes that there has been less than substantial harm to the non-designated heritage assets. The value of assets is low to medium and magnitude of impact is also low to medium. Although some harm to the non-designated heritage asset represented by some impact on the lynchet next to the car park has arisen²⁴, §203 NPPF does not dictate that planning permission should be refused; rather it is a factor that should be weighed in the balance. Where the value of a below ground asset is low and the impact of development is

²⁴ See also Archaeology SoCG.

also low, it is difficult to conclude that it should prevent development being retained. In any event, to the extent that some harm has already occurred then it will be more than overcome by the production of a Conservation Management Plan (“CMP”). As the archaeology SoCG records:

“We are agreed that a Conservation Management Plan (CMP), to include the Hall, the gardens and parkland, would be of great benefit to the future management of the estate and should be a priority. This would establish an understanding of the significance of the whole place, including a better understanding of the buried archaeological resource. A geoarchaeological deposit model could be beneficial.”²⁵

(4) There are considerable public benefits that outweigh any heritage harm.

39. If the Inspector considers that the net position results in less than substantial harm to the designated heritage assets, the public benefits associated with the Appeal Scheme are compelling.

Benefits: the correct approach.

40. It is likely that the NPA will argue that many of the claimed benefits could have arisen irrespective of the Appeal Scheme; that the Appellants should not be able to get credit for works and schemes that they could or should have put forward in any event. To reduce the weight to the public benefits in this way would be an error.
41. **First**, Ground (a) of s.174 TCPA allows the Inspector to consider the planning merits as if a planning application were made to her in the first instance²⁶. There is no statutory basis for diminishing the weight to be attached to benefits that could be secured via condition or planning obligation because (i) they could have been brought forward independently of the Appeal Scheme; or (ii) because the development is unauthorised. If one were to extend the NPA’s first point to its logical conclusion, a decision taker could never give weight to matters that could be undertaken without planning permission: *e.g.* planting trees, managing hedgerows or the creation of new habitats. That is plainly wrong.

²⁵ Arch SoCG §8.

²⁶ Section 177(6) and (8) TCPA.

42. **Second**, the key point to note is this: the Conservation Management Plan (“CMP”)²⁷, the recycling of revenue to secure the long term future of the Hall and Estate, the creation of a woodland walk, the biodiversity enhancements and the succession tree planting (to name only a selection of the benefits) will be guaranteed if planning permission is granted. If permission is refused, the Harrisons will continue to take their role as custodians of Thornbridge Hall and Estate seriously but there will be no legal mechanism to secure the delivery of these important benefits. Indeed, had the NPA engaged effectively from the outset, these benefits could have been offered and secured. Accordingly, the weight to be attached to these benefits should not be reduced.
43. **Third**, in XX of CP it was suggested that the Harrisons had had plenty of time since their purchase of Thornbridge Hall to address matters such as a CMP or succession tree planting, the inference being that many of the mitigation works were a retrospective justification for unauthorised development. This was an extremely unfair criticism. Mr Jim Harrison’s Statement of Truth²⁸ explains in detail the very extensive and costly works that he and his wife have undertaken and funded since they bought the Hall and Estate in 2002. The Hall was derelict but is now restored. The formal gardens were in a parlous state but are now a Royal Horticultural Society partner garden. The wider parkland has been maintained. None of this would have happened without the Harrisons investing some £20m of their own money. All of this took considerable time and effort and they can scarcely be condemned for not doing everything in the last 20 years.
44. Additionally, the NPA are wrong to characterise the mitigation and enhancement works offered through this Appeal as an *ex post facto* rationalisation. As CP stated in XC, it has long been the Harrisons’ intention to bring forward an All Estate Plan, succession tree planting and a woodland walk. Jim Harrison sums up his and his wife’s position as follows:
- “Thornbridge is our legacy. We wish it to be able to stand on its own two feet so that it is not reliant on future generations being able to fund it..... We are not prepared to gamble Thornbridge’s future on someone else being able to do what we have done – thus the need to establish its own, larger income.”*²⁹
45. These are the words of a family committed to the sustainable future of Thornbridge Hall and Estate, not someone riding roughshod over the planning system. It is also abundantly

²⁷ Which AB described as generating a “huge amount of additional knowledge” (AB Proof §6.32, p.21).

²⁸ CP App EP10

²⁹ Jim Harrison Statement of Truth, §7 (CP App p.316).

clear that the Harrisons had a vision for Thornbridge that they attempted to share with the NPA³⁰ in March 2020 but went nowhere, largely due to the NPA's inactivity during Covid-19. The Presentation even featured a new access track following broadly the same alignment as Driveway A³¹.

46. There are numerous of public benefits of the Appeal Scheme, the most significant of which are set out below. We would invite the Inspector to re-read CP's Proof³² and Speaking Note for a full recitation of the numerous and compelling suite of benefits that have been made possible by the Appeal Scheme.

Conservation Management Plan

47. The CMP represents a substantial benefit which is capable of generating a "huge amount of additional knowledge"³³. As KS explained, given her very considerable experience of producing and lecturing on CMPs, the knowledge gained through the preparatory work for this Appeal goes some way to providing the evidence base for an effective CMP. The CMP will cover all aspects of heritage interest at Thornbridge, including above ground and below ground assets. It will ensure that the significance of the various heritage assets are well understood and that any future change or management is carried out sensitively. Whilst a CMP could have been produced in concert with the NPA previously, granting planning permission guarantees its production.
48. The CMP can be delivered through the submitted Unilateral Undertaking or through the condition suggested by the Appellants. Following guidance in the NPPF the natural preference would be to impose a condition. For the avoidance of doubt, a CMP condition could require details of management and repair of the historic assets.

³⁰ See Pre-Application Presentation at CP App EP2.

³¹ CP App. P.111.

³² p.55ff

³³ AB Proof §6.32, p.21

Independent Revenue Stream

49. Thornbridge Hall and estate have relied on the Harrisons' private resources on their journey up to now. These resources are not unlimited and the Harrisons are not going to be around forever; hence the need for an independent source of revenue to assist in maintaining the land and its heritage assets into the future. This commitment is shown through the submitted Unilateral Undertaking ("UU") or the CMP condition, which not only identifies specific works that are required to the listed Temples but also ensures that a properly funded and costed CMP is secured and complied with. Securing the long term future of Thornbridge is not only consistent with the Harrisons' strongly held commitment but is a significant public benefit.

Public access to the gardens

50. This access is now available 7 days a week throughout the year. With the limited parking next to the Hall it would simply not be possible to provide this level of access. As CP said in evidence, Driveway A, the car park and café have facilitated this increased access. The explosion in visitor numbers between 2017 and 2022 reflect not only the attractiveness of Thornbridge to the public but also show that it is now significantly more accessible by car, by coach, on foot and by cycling³⁴. As a testament to its broader public appeal and the hard work of all involved, within the last few days Thornbridge Estate has been shortlisted for Visitor Attraction of the Year alongside Heights of Abraham and Matlock Park Farm for the 2023 Peak District & Derbyshire Tourism Awards.
51. The access to the historically important gardens and grounds for the benefit of the local community and wider public from an interpretive and wider social welfare perspective. This promotes opportunities for the public understanding and enjoyment of the special qualities of the estate.
52. As well as the general public, the Appeal Scheme has encouraged visits from specific groups. These groups have visited since the development was carried out and will continue to be encouraged to visit irrespective of whether this is guaranteed by condition or UU. Nonetheless, it is entirely open for conservation management policies in the CMP to

³⁴ CD8.18

include details of how specific groups can be encouraged to visit Thornbridge in case the NPA need that reassurance.

The groups include the following:

School visits. Thornbridge is open to all schools to visit. Previously, there were insufficient spaces for coach parking. This is now possible in the new car park. The local village school Great Longstone School spent ‘wild week’ there in summer 2021. Thornbridge 4 Everyone is also working to enable underprivileged schools to visit Thornbridge (see below). Included in the letters of support at CP **EP3** are thank you letters from William Rhodes Primary and Nursery School, Blackwell Primary School and Ladybridge Primary School

Foster families have free access to the gardens. This benefit could not be fully utilised when the Hall was only open three days a week. Thornbridge Hall is working with Derbyshire County Council and Sheffield City Council children’s services to ensure that all Foster carers are aware of Thornbridge for Everyone (T4E). Thornbridge supports underprivileged schools and foster families.

Access for community groups – arts groups, Bakewell WI, young musicians, theatre groups. The gardens will close to the public at 5pm and the gardens and café is available for charities and community groups after this time. Given the current pressure on accessibility of venues, which is likely to remain the case in the future, the sustainable use of existing resources is something that should be encouraged.

Links with other education establishments – Thornbridge Hall is working closely with Derby University. The architecture students are developing ideas for Thornbridge as part of a project. As part of this they were involved in a workshop at Thornbridge Hall (February 2022).

Access for charitable organisations such as National Garden Scheme Charity Day.

53. Access to and enjoyment of heritage assets by members of the public is positively encouraged by the NPPF. They “*should be conserved in a manner appropriate to their significance so that they can be enjoyed for their contribution to the quality of life of existing and future generations*”: §189 NPPF. HE’s Guidance on Setting describes improved public access to heritage assets and

their settings as an ‘enhancement’³⁵. DE accepted that, as a matter of principle, public access is a heritage benefit. The Appeal Scheme has demonstrably increased the number and diversity of visitors to Thornbridge, a factor that should garner very significant positive weight.

Public access to the house

54. House tours now run four days a week (Monday, Tuesday, Wednesday and Friday). The tours commenced in June 2021. The new access and car park have enabled more visitors to the estate which in turn has facilitated the provision of additional attractions such as opening to the house.

Parkland Walk

55. The NPA’s apparent resistance to this proposal was nit-picking in the extreme. AC considered that a separate planning application should be submitted for this element of the benefits package. With respect, that was rather nonsensical. First, it is trite law that a condition can require the provision of such a scheme; it is no different from a landscaping scheme or the regrading of the driveway bund. Second, it is highly unlikely to constitute ‘development’ for the purposes of s.55 TCPA given the minimal intervention shown illustratively on the Barnes Walker drawing³⁶.
56. The proposed parkland walk will provide public access to the privately owned parkland for the first time in the history of Thornbridge, bar the single right of way that runs through the park. Although there is a public footpath that runs through the grounds, this does not provide access to the wider estate. Awareness of the trail to promote public understanding of the heritage asset would be enhanced by the availability of a leaflet and associated signage.
57. Both Chatsworth and Lyme Park (two of the four Registered Parks and Gardens within the National Park) have extensive access to the parkland through permissive footpaths

³⁵ CD4.06, §38.

³⁶ CD1.13.

alongside existing rights of way. Access to historic parkland on this basis is a significant public benefit.

58. The NPA consider that the Parkland Walk is not a benefit as it could be provided in any event. That may be the case but there is no requirement or incentive for the Appellant to provide it in the absence of the proposals and the NPA's position ignores the reality that the provision of the parkland walk attracts establishment and upkeep costs so is highly unlikely to be provided 'in any event' as suggested. Furthermore, a planning permission is the mechanism by which this can be secured by way of planning condition.

Mental Health Benefits

59. There was a golden thread running through most of the supportive statements (both written and oral): the beneficial effect on mental health enjoyed by visitors to Thornbridge. Physical and mental well-being are factors that are often neglected in planning decisions despite the fact that the provision of open spaces that support communities' health, social and cultural well-being lies at the heart of the social objective of sustainable development³⁷. §92 NPPF enjoins decision takers to achieve healthy, inclusive and safe places by (amongst other matters) promoting social interaction, "including opportunities for meetings between people who might not otherwise come into contact with each other"³⁸ and enabling and supporting healthy lifestyles³⁹. Beyond any shadow of a doubt, Thornbridge meets these aims, as the witnesses at the Inquiry testified.

Support for the Thornbridge 4 Everyone Foundation

60. The objectives of the charity are to promote for the benefit of the inhabitants of the Peak District, the surrounding area and other parts of the UK, the provision of facilities for recreation, life experiences or other leisure time occupation of individuals who have need of such facilities by reason of social and economic circumstances in the interests of social welfare and with the object of improving the condition of life and life chances. The increased visitor numbers have generated revenue for the charity through (amongst other matters) £1 from every child entry, 10p from every hot drink and fund raising from special events such as Bonfire Night.

³⁷ NPPF §8(b).

³⁸ §92(b)

³⁹ §92(c)

Access to the Monsal Trail

61. The links with the Monsal Trail enables access without being reliant on a car from Great Longstone, Bakewell and as far as Buxton as well as the various hubs along the trail. Previously although the footpath through the parkland linked with the Monsal Trail, there was no direct access to it. The relocation of the public access adjacent to the trail makes Thornbridge accessible to an entirely new group of people and also provides a spin-off benefit for the Monsal Trail. Paragraph 2.4.9 of the Transport Statement indicates that Thornbridge Hall has a 16km cycle catchment. The ability to access a visitor facility by a relatively flat, safe cycle link is particularly unique in the Peak District.
62. The licensed café and toilets are accessible to users of the trail without an admission fee and provide employment opportunities for residents as well as economic benefits for the local supply chain as it is intended to retain a clear focus on local suppliers.

Job creation of more than 35 FTE jobs

63. Employee numbers have increased from 7 to 30 full time equivalents in 12 months. An apprenticeship scheme will aim to support 30 applicants over the next 3 years. Appointments to date include a Hospitality and Visitor Experience Director who in turn will look to enhance the visitor experience at Thornbridge. These jobs are undertaken by real people in an area where house prices are often out of reach. One such real person was Olivia Cridland, who gave evidence at the Inquiry, explaining that her employment at Thornbridge had enabled her to buy her first home.

Securing optimum viable use of the heritage assets.

64. Both the Framework and PPG establish that securing the Optimum Viable Use can be part of the public benefit assessment. Although securing the optimum viable use of the heritage asset could also be a heritage benefit, it also has wider social benefits.

Biodiversity Enhancements

65. The Ecology Survey⁴⁰ found that the implementation of the landscape proposals under Ground (a) would deliver a net gain in biodiversity. It is notable that this assessment was not able to consider the much more extensive compensatory tree planting and succession planting that would be secured if planning permission were granted. In this regard, the Appeal Scheme aligns itself with one of the Government's key planning objectives.
66. At the risk of descending into hyperbole, the diverse range of public benefits that have arisen and which can be secured by granting planning permission for the Appeal Scheme are quite extraordinary. Of course the Appellants recognise that it would have been preferable to have applied for planning permission in the first instance but the weight to be attributed the benefits should not be diminished because retrospective consent is being sought.
67. We therefore have no hesitation in concluding that the public benefits outweigh the less than substantial harm to the designated heritage assets at Thornbridge.
- (5) There are no other interests of acknowledged importance that are adversely affected to an unacceptable degree.**
68. Importantly, there is no basis for resisting planning permission on the following grounds.
69. **Highways.** Derbyshire County Council ("DCC") have not raised any concerns about highway safety or the free flow of traffic. The NPA belatedly sought to raise a point in relation to increased visitor numbers but DCC confirmed that this did not lead to an objection subject to the imposition of conditions⁴¹.
70. **Landscape.** We have addressed the key landscape concerns above since they mostly relate to the claimed impacts on the RPG and other designated heritage assets. Importantly, the NPA did not call a separate landscape witness, which rather suggests that they did not have a strong, free-standing objection on landscape or visual grounds.

⁴⁰ CD1.01

⁴¹ See ID11.

71. There have been some localised, low level landscape effects in the short to medium term but with mitigation in the longer term this will reduce to a negligible landscape effect.
72. **Trees.** At the Inquiry some considerable time was taken up in discussing root protection areas (“RPAs”) (asymmetric or otherwise), the application of the British Standard and the extent to which some existing trees may or may not have been damaged by Driveway A and the car park. However, the Inspector does not need to make any findings on these issues since at the end of XX of FS she confirmed that any harm that may have been caused to existing trees could be overcome by a combination of the succession tree planting scheme⁴² together with some additional compensatory planting. Both of those measures can be secured by condition⁴³ and align entirely with the Harrisons’ long term plan for the estate and parkland.
73. Perhaps equally importantly, both the succession and compensatory tree planting will ensure that the parkland reflects more closely the Marples vision, which the NPA are so keen to preserve. This point can best be illustrated by comparing the 1939 aerial photo⁴⁴ with the 2020 aerial photo⁴⁵. The contrast is stark: in the earlier photo, which was taken a few short years after Marples’ death, shows far more trees in the parkland than in the more recent picture. The reason for the contrast is the lack of effective management and succession planting by previous owners. Granting planning permission with the appropriate conditions not only mitigate the potential adverse effect of Driveway A and the car park but – in the longer term – will generate a heritage benefit by respecting Marples’ legacy.
74. There is a further collateral benefit of the tree planting proposals. The newly planted trees will, in time, provide some screening of Driveway A from Thornbridge Hall. Again, filtered views from the terraces and formal gardens are entirely consistent with Marples’ time as custodian of Thornbridge.
75. **Flooding and drainage.** A comprehensive drainage plan has been submitted to DCC as the relevant authority. They raised no objections to the drainage plan but the NPA saw fit,

⁴² CD1.11

⁴³ See condition 5, which provides for a Compensation Tree Planting Scheme to be submitted and approved by the NPA.

⁴⁴ NF p.16

⁴⁵ NF p.18

on the Friday before the Inquiry opened, to express concerns about the archaeological, heritage and arboricultural impacts of the drainage scheme. The NPA have been in possession of substantially the same scheme for 6 months. In any event, it was apparent from the conditions session that both the Appellants and the NPA would be satisfied with Condition 13, which requires the submission of a sustainable drainage scheme. Whether that will include an attenuation pond or underground pipes is a matter for future discussion and does not need to be considered further as part of this Appeal.

76. For all of the above reasons, which include mitigation and enhancement works secured by condition and a reliable income stream to restore and repair the Estate (s.106 obligations), planning permission should be granted for the Appeal Scheme.

Ground (f) appeal

77. 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 café⁴⁶ and a condition requiring the driveway and car park to be removed if the use ceases. This is very much a secondary argument given that permanent retention of the entire development is, we say, acceptable.

Ground (g) appeal

78. A period of 12 months is requested to allow (a) further archaeological assessment to be undertaken (3-5 months) and (b) a sufficient period of dry weather (Spring/Summer 2023).

8th December 2022

JONATHAN EASTON
KINGS CHAMBERS
COUNSEL FOR THE APPELLANT

⁴⁶ NB – Mr Green, on behalf of the Gardens Trust supported a temporary permission for the café.