



Appeal Decision

Inquiry held on 11, 12, 13, 14 and 18 October 2022 and (virtually) on 8 December 2022

Site visits made on 11 and 17 October 2022

by D Boffin BSc (Hons), DipTP, MRTPI, DipBldg Cons (RICS), IHBC

an Inspector appointed by the Secretary of State

Decision date: 23 March 2023

Appeal Ref: APP/M9496/C/21/3279072

Land at Thornbridge Hall, Baslow Road, Ashford-in-the-Water, DE45 1NZ

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended (the 1990 Act). The appeal is made by Mr James Harrison against an enforcement notice issued by Peak District National Park Authority.
- The notice was issued on 15 June 2021.
- The breach of planning control as alleged in the notice is: -
 - (i) Without planning permission, the carrying out of operational development, consisting of the construction of a driveway (including the formation of adjacent soil bunds), the approximate location of which is shown cross-hatched black and denoted as 'Driveway A' on the attached plan (drawing no. ENF21-0034(1)); and
 - (ii) Without planning permission, the carrying out of operational development, consisting of the construction of a driveway, the approximate location of which is shown hatched black and denoted as 'Driveway B' on the attached plan (drawing no. ENF21-0034(2)); and
 - (iii) Without planning permission, the carrying out of operational development, consisting of the construction of a car park (including the formation of adjacent soil bunds), the approximate location of which is shown hatched black and denoted as 'Car Park' on the attached plans (drawing nos. ENF21-0034(1) and ENF21-0034(2)); and
 - (iv) Without planning permission, the carrying out of operational development, consisting of the laying of hardsurfacing, the approximate location of which is shown shaded grey and denoted as 'Hardsurfacing' on the attached plan (drawing no. ENF21-0034(2)); and
 - (v) Without planning permission, the carrying out of operational development, consisting of the construction of a building, the approximate location of which is shown cross-hatched black and denoted as 'Building' on the attached plan (drawing no. ENF21-0034(2)); and
 - (vi) Without planning permission, the carrying out of operational development, consisting of the erection of fences, including gateways and stiles, the approximate location of which are shown as a solid green line on the attached plans (drawing nos. ENF21-0034(1) and ENF21-0034(2)).
- The requirements of the notice are to:
 - a) Remove the driveway denoted as 'Driveway A', including the adjacent soil bunds, from the Land, avoiding any damage to the roots or rooting area of trees; remove all of the materials used in the construction from the Land and reinstate the Land to its former levels and condition and matching its appearance to the adjoining grassland.
 - b) Remove the driveway denoted as 'Driveway B' from the Land, avoiding any damage to the roots or rooting area of trees; remove all of the materials used in the construction from the Land and reinstate the land to its former levels and condition.
 - c) Remove the car park, including the adjacent soil bunds, from the Land, avoiding any damage to the roots or rooting area of trees; remove all of the materials used in

the construction from the Land and reinstate the land to its former levels and condition and matching its appearance to the adjoining grassland.

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

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

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

- The period for compliance with the requirements is: 6 months.
- The appeal is proceeding on the grounds set out in section 174(2)(a), (c), (f) and (g) of the 1990 Act. Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the 1990 Act.

Summary Decision: The appeal is allowed, the enforcement notice is quashed, and planning permission is granted in the terms set out below in the formal decision.

The Notice

1. On an appeal any defect, error, or misdescription in an enforcement notice may be corrected using the powers available in section 176(1)(a) of the 1990 Act, or the terms may be varied, where the correction or variation will not cause injustice to the appellant or local planning authority.
2. Requirements a) and c) include the wording '*reinstate the Land to its former levels and condition and matching its appearance to the adjoining grassland*' at the end of them. Whereas requirements b), d), e) and f) don't include the wording '*and matching its appearance to the adjoining grassland*'. To ensure consistency throughout the requirements I intend to delete the wording '*and matching its appearance to the adjoining grassland*' at the end of requirements a) and c). There is no dispute that this wording is superfluous and that it can be deleted without any injustice to the main parties.
3. At the accompanied site visit on the 11 October 2022, it was apparent that the location of the hardsurfacing shown on drawing no. ENF21-0034(2) did not reflect the extent of the hardsurfacing on the site. An amended plan was produced by the Peak District National Park Authority (the Authority) which reduced the extent of the hardsurfacing affected by the notice. The amended plan provides clarity and there is no dispute that given the reduction in the extent of hardsurfacing that the plan can be substituted without any injustice to the main parties. I therefore intend to delete drawing no. ENF21-0034(2) and the references to it, within the enforcement notice, and substitute it with the plan annexed to this decision and the references to it with the wording 'Amended Plan – October 2022'.

Preliminary Matters and Background

4. The Inquiry commenced on 11 October 2022 and was programmed to sit for 5 days with the fifth day being on the 18 October 2022. However, an additional sitting day was required to hear all the evidence, and this was held virtually on 8 December 2022. I undertook an accompanied site visit on the 11 October and an unaccompanied site visit on the 17 October 2022.
5. Prior to and during the Inquiry a draft unilateral undertaking (UU) and amended versions of it were submitted to the Inquiry by the appellant. The UU could not be completed before the end of the Inquiry as it required completing

by a signatory for a bank. The completed and signed UU was submitted on 20 January 2023.

6. The appeal was initially submitted on behalf of Mrs Emma Harrison but prior to the Inquiry opening this was altered to Mr James Harrison. Both Mr and Mrs Harrison live at and own Thornbridge Hall and for the purposes of section 174(1) of the 1990 Act they both have an interest in the land. Consequently, Mr Harrison is named as the appellant within the banner heading above.
7. Thornbridge Hall (the Hall) was part of the estate of the Longsdon family for most of the time from the 12th Century until the 19th Century. The Longsdon family put the Hall and its grounds up for sale in 1871 and they were purchased by John Sleigh, a Leek manufacturer. In 1871 Sleigh sold the Hall and 185 acres (c 77ha) of land to Frederick Craven who commissioned the architect J B Mitchell-Withers to rebuild the Hall. In 1896 the Hall was sold to George Jobson Marples (Marples), who enlarged the estate to over 400 acres (c 166ha) and he commissioned Charles Hadfield to alter the Hall, add stables and build lodges on the boundary of his new park. He also laid out formal gardens around the Hall to designs by James Backhouse and Son's nursery (Backhouse) in York, and he constructed a new access road off the A6020. When Marples died in 1929 the estate was sold to Charles Boot (Boot) of the construction firm Henry Boot. Boot embellished the Hall and gardens with an assortment of artefacts including balustrading, urns, a fountain from Clumber Park, Nottinghamshire, and marble statues. When Charles Boot died in 1945 the Hall, with 185 acres (c 77ha), was purchased by Sheffield City Council, who developed it as a teacher training college and later a conference and education centre. The Hall was put up for auction in 1997 and in 2002 it was bought by the appellant. The Hall is currently used as a dwelling, wedding and conference centre and visitor attraction.
8. The appeal site comprises the Hall, its associated buildings and the park and gardens in which they are situated. The Hall, park and gardens occupy an area of land between the Monsal Trail and the village of Ashford-in-the-Water. The Hall is a grade II listed building and there are 10 more list entries, all grade II, covering various buildings, structures, walls, gates and garden features within the appeal site. The appeal site is also within the Thornbridge Hall grade II registered park and garden (RPG), the Thornbridge Conservation Area (TCA) and the Peak District National Park (PDNP). There are several other listed buildings close to the appeal site that are within the RPG and TCA.

The ground (c) appeal

9. An appeal on ground (c) is that those matters (if they occurred) do not constitute a breach of planning control. In an appeal on this ground the onus is on the appellant to show on the balance of probability that the matters alleged, to have occurred, in the notice do not constitute a breach of planning control. The appellant's case within this ground of appeal is limited to the erection of the fences, gateways and stiles cited at section 3 vi) of the notice. Accordingly, there is no basis on which the notice could be quashed under ground (c), but there is scope for argument as to whether the notice can require removal of those fences, gateways and stiles. The planning merits of that part of the development are not relevant within this ground of appeal as my decision in this respect rests on the facts of the case, on relevant planning law and judicial authority.

10. The appellant argues that the fences, gateways and stiles would have fallen within that 'permitted' under Article 3 and Schedule 2, Part 2, Class A (Class A) of the Town and Country Planning (General Permitted Development) (England) Order 2015 (GPDO), which concerns the erection of a gate, fence, wall or other means of enclosure. There is no dispute that the fences including the gateways and stiles constitute means of enclosure and therefore fall to be considered under this Class of the GPDO. Based on my observations and the evidence before me I have no reason to disagree. Under A.1.(d), development is not permitted under Class A if it would involve development within the curtilage of, or to a gate, fence, wall or other means of enclosure surrounding a listed building.
11. In this case the dispute centres on whether the fences, gateways and stiles are within the curtilage of the Hall. There are 2 main areas of fencing, gateways and stiles the first being adjacent to the café building and the other is along the northern side of Driveway A and extends along the southern side of the carpark. There is no dispute that the pergola adjacent to the café building and the fencing to the south of Driveway A are not part of the development affected by the enforcement notice.
12. The GPDO does not attempt to define the term 'curtilage' and there is no other all-encompassing, authoritative definition. The Courts have often addressed the meaning of 'curtilage', most frequently in relation to listed buildings. The most recent is the *Blackbushe*¹ judgment of the Court of Appeal and even though that case did not involve a listed building Andrews LJ states at paragraphs 25 and 26 that *'the curtilage of a building is a single concept, and Mr Edwards is right that it does not have different meanings in different statutory contexts. There is in truth only one test, and that is the test articulated by Buckley LJ in Methuen-Campbell, but that is not the same as BAL's "integral whole" test. The question whether the test is satisfied in any given case will depend on the facts and circumstances of that case.....The ambit (or physical extent) of the curtilage of a building in any given case will be a question of fact and degree.'*
13. At paragraph 61 of *Blackbushe* the following from *Methuen-Campbell*² is cited:
*'What then is meant by the curtilage of the property? In my judgment it is not sufficient to constitute two pieces of land parts of one and the same curtilage that they should have been conveyed or demised together, for a single conveyance or lease can comprise more than one parcel of land, neither of which need be in any sense an appurtenance of the other or within the curtilage of the other. Nor is it sufficient that they have been occupied together. **Nor is the test whether the enjoyment of one is advantageous or convenient or necessary for the full enjoyment of the other.** A piece of land may fall clearly within the curtilage of a parcel conveyed without its contributing in any significant way to the convenience or value of the rest of the parcel. On the other hand it may be very advantageous or convenient to the owner of one parcel of land also to own an adjoining parcel, although it may be clear from the facts that the two parcels are entirely distinct pieces of property. **In my judgment, for one corporeal hereditament to fall within the curtilage of another, the former must be so intimately associated with the latter as to lead to***

¹ *Hampshire CC & the Open Spaces Society & Others v SSEFRA & Blackbushe Airport Ltd* [2020] EWHC 959 (Admin), [2021] EWCA 398, [2020] JPL 1359

² *Methuen-Campbell v Walters* [1979] 2 QB 525

the conclusion that the former in truth forms part and parcel of the latter.

*There can be very few houses indeed that do not have associated with them at least some few square yards of land, constituting a yard or a basement area or passageway or something of the kind, owned and enjoyed with the house, **which on a reasonable view could only be regarded as part of the messuage**, and such small pieces of land would be held to fall within the curtilage of the messuage. This **may extend** to ancillary buildings, structures or areas such as outhouses, garage, driveway, garden and so forth. **How far it is appropriate to regard this identity as parts of one messuage or parcel of land as extending** must depend on the character and the circumstances of the items under consideration. **To the extent that it is reasonable to regard them as constituting one messuage or parcel of land**, they will be properly regarded as all falling within one curtilage; they constitute an integral whole.'* (the emphasis is from *Blackbushe*)

14. Andrews LJ goes on to state at paragraph 62 that '*this as good an expression of the concept of curtilage as one is likely to find*'. She then says at paragraph 64 that '*on a proper reading of that passage, the conclusion that the land and building together constitute an integral whole is the consequence of applying the intimate association/part and parcel test articulated earlier, and not another way of articulating that test.*' She also extensively reviews a number of other judgments including *Dyer*³, *Calderdale*⁴, *Skerritts*⁵ and *Challenge Fencing*⁶. She states at paragraph 116 that '*the conclusion to be drawn from the authorities is that they all illustrate different applications of the same test to the facts and circumstances of the specific cases. They demonstrate that the curtilage in a given case is a question of fact and degree....the approach of Buckley LJ in Methuen-Campbell has been adopted and followed in all the different statutory contexts in which the concept of "curtilage" has been considered...*'.
15. In *Calderdale* Stephenson LJ stated that '*three factors have to be taken into account in deciding whether a structure (or object) is within the curtilage of a listed building They are (1) the physical 'layout' of the listed building and the structure, (2) their ownership, past and present, (3) their use or function, past and present.*' These have become known as the "Stephenson factors".
16. The Court of Appeal in *Skerritts* described the decision in *Dyer* as plainly correct, though commenting that '*this court went further than it was necessary to go in expressing the view that the curtilage of a building must always be small, or that the notion of smallness is inherent in the expression.*' In addition, at first instance '*the deputy judge was mistaken in treating Dyer as having such clear force as he thought it had.*' Thus, that judgment makes it plain that there should not be a rigid application of the concept of size.
17. At paragraphs 132 and 133 of *Blackbushe* Nugee LJ states that '*the extensive array of authorities cited to us on this appeal enables us to do this.... in grander houses, the curtilage would extend to "the house, the stables and other outbuildings, the gardens and the rough grass up to the ha-ha if there was one", but not to the 100 acre park surrounding a mansion house (Dyer at*

³ *Dyer v Dorset County Council* [1989] 1 QB 346

⁴ *Attorney-General ex rel Sutcliffe v Calderdale BC* (1983) 46 P&CR 399

⁵ *Skerritts of Nottingham Ltd v SSETR* [2001] QB 59

⁶ *Challenge Fencing Ltd v SSHCLG* [2019] EWHC 553 (Admin)

358F-G per Nourse LJ); *thus it would include a wall forming part of a ha-ha (Watson-Smyth v Secretary of State for the Environment (1992) 64 P&CR 156); and a stable block even some distance away from the main house (Skerritts); but not 64½ acres of a park, meadow land and pasture land (Buck d. Whalley v Nurton (1797) 1B & P 53); nor a 650m long fence along the driveway (Lowe v First Secretary of State [2003] EWHC 537 (Admin)...'*

18. Historic England's Advice Note 10 – Listed Buildings and Curtilage (HE Note 10) is cited by the Authority. Within the introduction of the advice note it is stated that '*Historic England has therefore prepared this note to help in understanding how to judge whether a building is within the curtilage of a listed building or not*'. The hypothetical examples given within it therefore relate to whether a building is within the curtilage of a listed building. Nevertheless, the guidance provides advice on the extent of curtilage in a number of different examples. It also states '*the law that refers to curtilage only came into effect on 1 January, 1969. Although there is no case law to confirm the matter, it would appear that the most logical way of dealing with buildings listed before 1969 would be to consider the position at 1 January, 1969, and apply the above three-part assessment of the facts to that situation.*' The three part assessment noted in that section relates to the Stephenson factors.
19. I acknowledge that the TCA appraisal document states that '*all the buildings, walls and structures within the grounds of Thornbridge should be assumed to be listed Grade II even if not marked on the plan.....and all are within the curtilage of a Grade II listed building*'. Nonetheless, other than that statement there is no formal assessment of the curtilage/s of the listed building/s that are within the TCA. As such, in this respect it has little weight.
20. The whole of the appeal site is within the appellant's ownership and it has formed part of the overall estate since Marples enlarged it in the late 19th Century. The Hall was listed in 1967 and at that time it was owned by Sheffield City Council and the appeal site formed part of the larger estate until it was sold in the late 20th Century.
21. The Hall is physically located towards the north-west corner of the appeal site adjacent to Longstone Lane. To the east and south of the Hall there are formal gardens with terraces, lawns, a pool and planting. The area near to the café building where the fences and gates have been erected is currently utilised as part of the more informal garden areas with some plant sales/rearing next to a poly tunnel. Immediately prior to the café building and the fences and gates being erected this part of the site was largely lawned, and the area adjacent to the poly tunnel appears to have been used for plant rearing and sales. To the north of the Hall itself, and south of the Monsal Trail, there are the stable buildings, west lodge (commonly known as north lodge), north lodge (commonly known as gardener's cottage) and a number of other buildings and glasshouses. There are also numerous paths and walkways within the garden areas and there are courtyards and yard areas between the various buildings.
22. The main access to the Hall is from the A6020 along the access drive that was constructed in the late 19th Century for Marples (the historic drive). To the south and east of the Hall and its formal/informal gardens is the parkland that was also created by Marples. Driveway A, the carpark and the fencing, gateways and stiles adjacent to them have been constructed within that parkland.

23. The part of the appeal site, around the Hall itself, is large in size compared to that of most residential dwellings. However, in my experience that size is comparable to that of other country or grander houses of this nature. Even though the area near the café building where the fences and gateways have been erected is an appreciable distance from the Hall itself it is experienced as part of the garden areas that are adjacent to the Hall. Whilst each of those garden areas has been landscaped in diverse ways/styles they are all linked physically and visually with pathways and views through them. As such, in my judgement they are experienced in a comparable way to different rooms/spaces within the Hall itself.
24. Moreover, this north-eastern part of the site is physically and visually separated from the parkland areas due to the tall retaining walls and balustrading of the southern lawned terrace and the densely landscaped shelter belt that runs around the remainder of the eastern boundary of this part of the site. There are views from the Hall and the garden areas into the parkland and there are gateways leading between them. However, the factors highlighted above serve to reinforce a powerful sense of distinct enclosure and separation between the parkland and the remainder of the site.
25. The part of the site near to the current café building is shown on the 1922 edition of the Ordnance Survey (OS) map as a blank rectangular area with trees around it. The fences and gateways have been constructed adjacent to pathways and within the rectangular area that are shown on the 1922 OS map. Little appears to be known historically about the way and for what purpose this part of the site was used. The Gardener's Chronicle Article from 1898 states that *'it is in contemplation to erect another range of glasshouses, and to form a new kitchen garden north of the present fruit garden'*. Therefore the blank rectangular area may have been an indication of where the kitchen garden was proposed.
26. However, there is no evidence to indicate that a formal kitchen garden was ever created within the rectangular area. At the time of listing and in 1969 the overall site was used as a teacher training college by Sheffield City Council. A rectangular area with paths through and around it is visible on an aerial photograph dating from around 1968. Nevertheless, it provides little assistance on the use of that part of the site at that time. The TCA appraisal document states that *'to the west the vegetable garden (36) is now grassed over for low maintenance'*. The associated plan indicates that (36) is within the rectangular area. The evidence before me also indicates that during the second world war until the late 20th Century all/part of this rectangular area was utilised as a vegetable garden. It is reasonable to consider that the vegetables were grown to be used within the teacher training college. Since the late 20th Century until immediately before the fences and gateways were erected, the rectangular area has been lawned.
27. Therefore, it appears that at the date of listing/1969 the area where the fences and gateways have been erected were in an ancillary use to that of the Hall. Moreover, the rectangular lawned area was used as part of the informal garden areas prior to the fences/gateways being erected. Whilst the plant sales and rearing area is not an ancillary use to the residential use of the Hall it is highly likely that it can be treated as being ancillary to the visitor attraction use of the Hall.

28. The parkland appears to have been used for grazing animals since its creation by Marples in the 19th Century. It contains ponds/lakes that were also constructed at that time and the one appears to have been used as a boating lake for recreational purposes. The parkland and the ponds/lakes were designed and created to provide an attractive setting and impressive approach to the Hall. However, the parts of the parkland where the alleged breaches have taken place have mainly been in agricultural use since the parkland was created.
29. Considering all of the above, the whole appeal site has been within the same ownership for many years, the area near the café building was in an ancillary use to the Hall at the time of listing/1969 and prior to the alleged breaches occurring. Moreover, due to the physical layout of the area around the Hall, in my judgement, the area near the café building has an intimate association with the Hall. Therefore, I consider that this part of the appeal site can, as a matter of fact and degree, reasonably be treated as forming part and parcel of the Hall and is within its curtilage. It follows that the fences and gateways within this part of the appeal site do not benefit from the permitted development rights in Class A of the GPDO. In this respect the ground (c) appeal fails.
30. The parts of the parkland where the fences, gateways and stiles have been erected have mainly been used for agriculture. Additionally, due to the physical layout there is a powerful sense of distinct enclosure and separation between those parts of the parkland and the Hall. Therefore, in my judgement those parts of the parkland do not have an intimate association with the Hall despite being within an area designed to provide an attractive setting for the Hall. As such, I find as a matter of fact and degree, on the balance of probabilities that these parts of the parkland cannot reasonably be treated as forming part and parcel of the Hall and they are therefore not within its curtilage. It follows that the fences, stiles and gateways within these part of the parkland benefit from the permitted development rights in Class A of the GPDO. In this respect the ground (c) appeal succeeds.
31. I therefore intend to delete the wording '*and stiles*' within section 3 vi) and requirement f) and the reference to more than one plan within section 3 vi). The wording at the end of section 3 vi) will be substituted with '*the plan annexed to this decision, Amended Plan – October 2022*'.

The ground (a) appeal and deemed planning application

Main Issue

32. Based on the written and oral evidence submitted I consider that the main issue is the effect of the development on the character and appearance of the surrounding area taking into account;
 - the special regard to the desirability of preserving the setting of nearby listed buildings and the contribution that setting makes to their significance;
 - the special interest and significance of the RPG and the special attention to the desirability of preserving or enhancing the character or appearance of TCA and its significance;
 - its effect on trees;
 - conserving and enhancing natural, landscape and scenic beauty of the PDNP;
 - potential features of archaeological interest;

Reasons

33. The appeal site consists of parkland composed of pasture, boundary tree planting and scattered mature trees, formal and informal gardens adjacent to the Hall and the Hall itself and numerous buildings, walls and garden structures in the north-western part of the site. The Hall stands on a natural vantage point overlooking the landscape to the south and east. Adjoining the appeal site to the north is the Monsal Trail, a recreational path and cycle route along a former railway line. Former train station buildings are adjacent to the Monsal Trail. To the east the site is bounded by Baslow Road (the A6020) and to the west by Longstone Lane. A public right of way (PROW) traverses the parkland from the Monsal trail to the A6020.
34. The development cited within the enforcement notice (as corrected) is the construction of: driveway A and associated bunds; driveway B; a carpark and associated bunds; a building, the laying of hardstanding and the erection of fences and gateways. Driveway A has been constructed within the parkland between the historic drive and the unauthorised carpark. Driveway B is between the unauthorised carpark and hardstanding.
35. Historic England has stated that the development has '*caused a high level of serious, less than substantial harm to the significance of the Thornbridge Hall registered park and garden, and the significance, derived from their setting, of Thornbridge Hall, Gardens at Thornbridge Hall, Four Hermes in Gardens at Thornbridge Hall, Fountain and Urns in Gardens at Thornbridge Hall, and Two Garden Temples in Gardens of Thornbridge Hall*'. The Gardens Trust stated initially stated that it considered that '*the breaches come in at the very highest end of less than substantial harm*'.
36. At the Inquiry the Garden Trust's representative stated that driveway A and the carpark have a major impact on the significance of the RPG and a moderate impact on that of the Hall. He also stated that the café building has resulted in a moderate impact on the significance of the 2 temples and the fountain/urns and a minor impact on that of the statues and the Hall. Moreover, he stated that driveway B has had a moderate impact on the significance of the 2 temples and that overall the café building together with driveway B has caused a moderate to major negative impact on that significance. He concluded by stating that the numerous public benefits of the appeal scheme do not outweigh the harm to the RPG and other heritage assets although the balance is fine.
37. Policy GSP1 of the Peak District National Park Local Development Framework (LDF) states amongst other things, that all policies must be read in combination; all development shall be consistent with the National Park's legal purposes and duty; and where there is an irreconcilable conflict between the statutory purposes, the Sandford Principle will be applied and the conservation and enhancement of the National Park will be given priority. LDF Policy GSP2 states, amongst other things, that when development is permitted a design will be sought that respects the character of the area. LDF Policy GSP3 states, amongst other things, that all development must respect, conserve and enhance all valued characteristics of the site and buildings that are subject to the development proposal and particular attention will be paid to 11 criteria including impact on the character and setting of buildings.

38. LDF Policy L1 states amongst other things, that development must conserve and enhance valued landscape character as identified in the Landscape Strategy and Action Plan (LSAP). LDF Policy L3 states, amongst other things, that development must conserve and where appropriate enhance or reveal the significance of archaeological, architectural or historic assets and their settings. It also states that other than in exceptional circumstances development will not be permitted where it is likely to cause harm to the significance of a heritage asset or its setting.
39. LDF Policy RT1 states, amongst other things that facilities will be supported which enable recreation and which encourage understanding and enjoyment of the National Park and are appropriate to the National Park's valued characteristics. LDF Policy E2 states, amongst other things, that proposals to accommodate growth and intensification of existing businesses will be considered carefully in terms of their impact on the appearance and character of landscapes.
40. Policy DMC1 of the Development Management Policies (DMP) states, amongst other things, that any development proposal with a wide scale landscape impact must provide a landscape assessment with reference to the LSAP. DMP Policy DMC3 states, amongst other things, that where development is acceptable in principle, it will be permitted provided that its detailed treatment is of a high standard and reference is made to a number of criteria. DMP Policy DMC5 states, amongst other things, that development of a designated or non-designated heritage asset will not be permitted if it would result in harm to the significance of a heritage asset unless criteria are met. DMP Policy DMC7 requires, amongst other things, planning applications for development affecting the setting of a listed building to clearly demonstrate how their significance will be preserved and why the proposed development and related works are desirable or necessary and it states that the application will be determined in accordance with DMP Policy DMC5. DMP Policy DMC8 requires, amongst other things, development proposals to assess and clearly demonstrate how the character and appearance and significance of the Conservation Area will be preserved or enhanced and it states that the application will be determined in accordance with DMP Policy DMC5. DMP Policy DMC9 explains that planning applications involving a Registered Park and Garden will be determined in accordance with DMP Policy DMC5. DMP Policy DMC13 states, amongst other things, that trees which positively contribute to the visual amenity or biodiversity of a location will be protected.
41. DMP Policy DME7 states, amongst other things, that outside DS1 settlements the expansion of existing business development will only be permitted where it meets a number of criteria including; the scale and type of development can be accommodated without adversely affecting the valued characteristics of the area.

Listed buildings

42. Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, (the LBCA Act) requires the decision maker, in considering whether to grant planning permission for development which affects a listed building or its setting, to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest. The glossary to the National Planning Policy Framework (the Framework) states

that the setting of a heritage asset comprises the surroundings in which it is experienced. Historic England's *The Setting of Heritage Assets* (GPA 3) sets out a stepped approach to considering the settings of designated heritage assets and the impact of development on them. It also makes clear that whilst visual considerations play an important part in how a setting is experienced, other factors also have relevance, such as noise or aesthetic associations.

43. As stated previously there are several buildings that are included in the list entries that are within the appeal site. These are; the Hall and the stable block to the north; gardens at the Hall; 2 garden temples; 4 Hermes in gardens; fountain and urns in gardens; north lodge (gardeners cottage) and attached gate and gate piers; west lodge (north lodge) and attached walls; retaining wall and grottos in gardens; boundary wall to the Hall, Longstone Lane; gates and attached walls at entrance to the Hall; gate piers, gates and railings to the Hall, Baslow Road. East Lodge (south lodge) and gates at eastern entrance are adjacent to the A6020 but they are not within the appeal site. All the listed buildings are Grade II. There are also other nearby listed buildings within the RPG and TCA.
44. All of the listed buildings are within the RPG and the TCA and they all have historic, archaeological and artistic/architectural interest derived from their association with the Hall, its owners, nationally and locally renowned architects and designers and from forming part of the overall park and gardens to the Hall. There is no dispute that the development does not have a direct physical impact on any of the listed buildings. Nevertheless, due to the nature and location of the development its impact on the specific surroundings that each of the listed buildings is experienced within is different. Therefore, its impact on the contribution that setting makes to the special interest/significance of the listed buildings varies. At the Inquiry there was no dispute that any ensuing harm to the significance of the listed buildings is and would be, in the language of the Framework, less than substantial in nature. The Planning Practice Guidance (PPG) indicates that within each category of harm, the extent of the harm may vary and should be clearly articulated. Less than substantial harm covers a wide spectrum from virtually no adverse impact to significance to that significance being almost all 'drained away'.
45. The Hall and its stable block to the north are part of one list entry. The list description states that the Hall has an 18th century core with 1871 additions, was completely altered in 1897 by Charles Hadfield in neo-Tudor style and also has 20th century additions. It details the internal and external architectural and artistic features of the Hall and stable block and their attributions to designers, architects and other historic properties. The special interest/significance of the Hall and stable block is largely derived from the quality of its architectural and artistic features, age, form, historic fabric and association with renowned designers and architects. It is the central element of a designed landscape that was mainly created in the late 19th/early 20th Century by Marples and Backhouse. That landscape is formed of a series of formal and informal gardens, parkland and courtyards and it has historic, archaeological, and architectural/artistic interest imparted by its design and the features within it.
46. Part of the formal garden structures are covered by a list entry known as gardens at the Hall (the garden structures). This includes garden walls, steps, terraces, game larder, garden house, grotto passage and ornaments. It largely covers the structures of the south and eastern terraces that are close to the

Hall itself. The special interest/significance of these garden structures is largely derived from the quality of their architectural and artistic features, age, historic fabric and association with renowned designers and architects and the Hall.

47. The Hall and the garden structures of the southern terraces are experienced in views from the historic drive and the PROW that lead through the parkland. The Hall is also experienced from the south and east terraces that form part of the formal gardens and in glimpse views from the informal gardens. The garden structures are in part experienced from within the Hall through views out of the rooms on the south and eastern elevations and in views from other parts of the formal and informal gardens.
48. The Hall is located on higher ground and the eastern and southern elevations are designed to take advantage of the views across the gardens and parkland. Moreover, the historic drive within the parkland appears to have been designed to impress any visitors with a sense of arrival to a 'grand country house'. As a result, the setting provided by the gardens, parkland and courtyards makes a positive contribution to the overall special interest/significance of the Hall and its stable block. The setting as part of the designed landscape close to the Hall makes a positive contribution to the special interest/significance of the garden structures.
49. Driveway A and its associated bund traverse through the parkland from the historic driveway through to the new car park. The junction of the 2 driveways is relatively wide and when combined with the painted lines on driveway A it has the appearance of a suburban estate road junction. Driveway A is also appreciably wider than the historic driveway and it effectively divides the part of the parkland that has the lakes/ponds within it from the remainder.
50. When travelling on the historic driveway from the A6020 towards the Hall driveway A and the new junction are visible in the foreground with the garden structures of the southern terraces and the Hall visible on higher ground, through mature landscaping, in the background. In these views, driveway A intrudes into the sense of arrival that the historic drive and parkland provide. However, the parkland and the Hall, above the garden structures of the southern terraces, remain as the focus of attention for most of the time when travelling along the historic drive towards the Hall. Additionally, the proposed landscaping scheme would remove the painted lines on the drive.
51. The driveway and its associated bund are visible from rooms on the southern and eastern elevations of the Hall and from the southern terraced lawns and the eastern terraces of the formal gardens. In those views the driveway surface is generally not visible as it is screened by the bund. Nevertheless, the bund is currently quite angular in profile and weed ridden. As a result, the bund draws the eye and appears as an incongruous feature in the landscape. Yet the bund is an appreciable distance from the Hall itself and the bund does not visually compete with the remainder of the landscape in the views from within the Hall. Moreover, the proposed landscaping scheme would reduce and soften the profile of the bund and it would be planted with grassland seed mixtures. This remediation would reduce the visual impact of the bund itself when viewed from the southern and eastern terraces but vehicles travelling along the driveway would still be visible.

52. From the PROW, when walking towards the A6020, glimpse views of the Hall through mature landscaping can be experienced. Driveway A and its bund do not interfere with those views, but the bund and vehicles are apparent in views towards the ponds/lakes within the parkland. Additionally, when walking on the PROW towards the Monsal Trail from the A6020 the driveway and its bund are seen in views with the Hall, the garden structures of the southern terraces and its parkland. Vehicles are clearly apparent and at close proximity as the footpath crosses over the driveway. As such, the drive and vehicles utilising it have and would have a high level of adverse visual effect on views of walkers on the PROW as they approach and cross over driveway A. Moreover, glimpse views into the parkland can be gained from the A6020 between the trees when the woodland is not in full leaf. The driveway and vehicles on it are visible in those glimpse views. Whilst the removal of the painted lines would reduce the estate road appearance of driveway A the remediation works to the bund would not reduce the visual impact of it and vehicles utilising it when viewed from the PROW and the A6020. Nevertheless, the views from the A6020 are seasonal and glimpse views.
53. Prior to the development being constructed vehicles travelled through the parkland on the historic driveway and an unmade track. Nonetheless, vehicles on the historic driveway are mainly screened by the topography when standing on the terraces. Furthermore, the unmade track appears to have been used to provide access to the animals on the parkland and for maintenance purposes. As such, it is highly likely that vehicle movements across the parkland on the unmade track would have been infrequent. Whereas driveway A facilitates frequent vehicle movements during the hours that the house and gardens are open to the public. That movement draws the eye and erodes the architectural/artistic interest that the parkland setting makes to the significance of the Hall. Even so the drive is located at a low level with the land either side of it gently rising towards the Hall and the A6020. Moreover, it is viewed from the terraces against the backdrop of the woodland planting that is alongside the A6020. Additionally, in the winter months regular vehicle movements on the A6020 are visible from the terraces and noise generated by those vehicles is audible when standing on the terraces and on the PROW.
54. Furthermore, it is clear, from the 1939 aerial view that is attached to the RPG list description, that at that time there were considerably more mature trees within the parkland. Those trees are likely to have been in place prior to the field boundaries being removed to create the parkland as several of them appear to follow the lines of those boundaries. Therefore, it is more likely than not that the landscape designed by Marples and Backhouse included many more parkland trees than currently exist. Those trees would have filtered the views from the terraces out into the surrounding landscape and the current wide-open views would not have existed. The original landscape design, in respect of the amount of parkland trees, was therefore not intact immediately prior to the development taking place. Still the construction of the drive has eroded the historic interest of the parkland through the fragmentation of that parkland into separate parts.
55. For the reasons given above, in my judgement the introduction of driveway A and its associated bund erodes the positive contribution that the designed landscaped setting makes to the Hall and the garden structures. The proposed remediation measures would alleviate to some extent their impacts, but they would not fully mitigate them especially when viewed from the PROW.

Consequently, driveway A and its bund have resulted in and would result in moderate impact to the contribution that setting makes to the special interest/significance of the Hall and the garden structures.

56. The carpark and its associated bunds are located to the east of the Hall within the parkland. It is bound to the north by the woodland belt that adjoins the Monsal Trail and to the west by the PROW and the belt of mature landscaping that adjoins the formal/informal gardens. Due to the distance from the Hall, the topography and the intervening mature landscaping the car park is not visible from inside the Hall itself or from the southern and eastern terraces of the gardens. Furthermore, visitors arriving in and parking their vehicles within the carpark and walkers on the part of the PROW that runs along one edge of that carpark cannot see the Hall and the garden structures of the eastern and southern terraces from within the carpark.
57. However, the whole of the parkland is part of the designed landscape associated with the Hall and prior to the works being carried out this part of the parkland was turfed. The parked vehicles and the car park can be glimpsed through the woodland belt from the Monsal Trail. However, it is highly likely that those views are seasonal and will be largely unaltered when the landscaping is in full leaf.
58. Nonetheless, the views from the PROW across this part of the parkland have significantly altered. Yet, there are no views of the Hall and the garden structures from the part of the PROW that is alongside the carpark. Visitors using this carpark now approach the Hall through the informal and formal gardens rather than through the courtyards. Nevertheless, those visitors can still view all the gardens and the courtyards with the Hall and garden structures in situ. Therefore, I consider that the carpark does not materially alter the experience of the visitor in terms of appreciating the garden structures and the contribution that setting makes to their significance. Still, the introduction of a hardsurfaced carpark within the parkland has eroded its historic interest and the contribution that that interest makes to the significance of the Hall. The proposed remediation works to the bunds and the carpark cannot reverse that erosion. As a result, the carpark has and would result in minor impact to the special interest/significance of the Hall.
59. Driveway B is also to the east of the Hall but it runs through the belt of mature landscaping that adjoins the formal/informal gardens and then it runs parallel to the Monsal Trail to the rear of the café building. For the reasons given above in relation to the carpark there is no intervisibility between driveway B and the Hall/garden structures and the driveway. The appellant states that an unsurfaced track crossed on the same line of the driveway prior to the works being constructed. It is not clear if any trees have been removed to construct the driveway. Even if there was an unsurfaced track the formalisation and surfacing of the driveway has, more likely than not, removed vegetation from the landscaped belt. The visual impact of the landscaped belt has been eroded but the ability to appreciate the overall design of the gardens and the division between them and the parkland still remains. The area parallel to the Monsal Trail also appears to have been a landscaped area between the boundary of the site and an existing hedge. It is not clear if any vegetation has been removed from this area but the changes to this peripheral part of the site have had little impact on the ability to appreciate the overall design of the gardens associated with the Hall. Therefore, the construction of driveway B has resulted in

negligible impact to the special interest/significance of the Hall and the garden structures.

60. The café building and the hardstanding adjacent to it have been constructed on what was mainly a lawned area that appears to have been used as part of the informal gardens immediately prior to the alleged breaches. As stated previously, part of the area had been used in the past as a vegetable garden and it may have been where the kitchen garden was proposed by Marples.
61. The café building is single storey with a very shallow dual pitched roof. It is clad in timber with its main section measuring approximately 25 metres (m) by 5 m and the rear section 4 m by 14 m. A decked area with balustrading is attached to the front of the building and it extends by around 5 m from the building. The areas of hardstanding consist of an area of tarmac, with painted lines, to the north and east of the café building and an area of gravel to the front of that building. There is post and wire fencing around part of the grassed area to the front of the decking. Adjacent to the lawned area there are 2 sets of double timber gates which are hung on stone pillars and to the front of the polytunnel, used for plant rearing and sales, a timber picket fence has been erected.
62. The café building and the hardstanding, fences and gates are not visible from the ground floor rooms on the eastern elevation of the Hall. Nonetheless, I observed that glimpses of the café building can be seen through the mature landscaping when standing near to the circular thatched garden house on the terraces. It is also visible from the eastern terrace to the rear of the stable block. However, in those views the café building is not dominant and forms part of the background to those views. As such, these parts of the development have negligible impact on the contribution that setting makes to the significance of the garden structures.
63. Yet the café building, hardstanding, fences and gates have physically altered a part of the garden area that was designed by Marples and Backhouse. But this part of the site does not appear to have formed part of the formal gardens and its use and appearance has altered since the early 20th Century. Consequently, the historic interest it contributes to the significance of the Hall is limited. Moreover, in 2010 and 2012 planning permissions⁷ were granted for 2 hard surface tennis courts, enclosure fencing and associated pavilion and for the construction of a range of ancillary buildings to the rear of a new glasshouse that were proposed on part/s of the site that the café building, and hardstanding have been constructed on. I acknowledge that there is no evidence before me that those planning permissions are extant and therefore there is no evidence that they would be constructed in the future.
64. However, they indicate that a specific form of development was considered acceptable by the Authority at those times. The hardstanding and fencing for the tennis courts would have been in a similar position to the hardstanding adjoining the café building, the pavilion would have been located where part of driveway B has been constructed and part of the range of ancillary buildings/new glasshouse would have been where hardstanding has been laid. The hardstanding that has been laid extends appreciably beyond what would have been constructed as part of the planning permissions yet a considerable part of the pre-existing lawned area would have been replaced.

⁷ Ref Nos: NP/DDD/0510/0499 & NP/DDD/0312/0255

65. Additionally, 3.5m tall fencing would have been erected around the tennis courts and a new gateway constructed adjacent to the ancillary buildings/glasshouse. Fencing/gateways would therefore have traversed this part of the garden. As such, the contribution that the historic interest of this part of the gardens makes to the significance of the Hall would have been eroded by those planning permissions. That historic interest has not been materially eroded to any greater extent by the development before me. In any case, the impact of the café building, hardstanding, fences and gateways on the contribution that setting makes to the significance of the Hall is negligible.
66. Overall, when considering where on the scale of less than substantial the harm lies/would lie, it is important to bear in mind that a large part of the significance of the Hall and the garden structures, both individually and as a part of the group associated with the Hall, is derived from the historic, architectural, artistic and archaeological value of their fabric. That would remain unaffected by the development before me. However, the changes have occurred within part of the gardens and the parkland setting that make a positive contribution to the significance of both buildings. Part of that development has/would have a moderate impact on that significance and other parts result in minor/negligible impacts. Therefore, in my judgement, the impact of the whole development is and would be around the centre of the scale of less than substantial harm on the significance of the Hall and garden structures.
67. The 2 garden temples, 4 Hermes (statues) and the fountain and urns in the gardens are within the informal gardens to the Hall. The 4 statues are located alongside Beech Walk and the 2 temples are adjacent to the belt of mature landscaping that adjoins the informal gardens. The fountain and urns are between the temples and the 4 statues. From the evidence before me, it appears that these ornamental structures were installed within the gardens by Boot. Even though they did not form part of the Marples and Backhouse design for the gardens their special interest/significance largely derives through the historic and architectural/artistic interest from their fabric, design, form and historical connections to other historic properties. Their significance is experienced mainly from within the immediate context of the informal gardens due to the enclosure provided by the mature landscaping around the informal gardens. The setting provided by the informal gardens contributes to the special interest/significance of these listed buildings.
68. Whilst driveway A can be seen from the end of Beech Walk it is behind the viewer in views from Beech Walk towards the statues, temples and the fountain/urns. As a result, driveway A does not impact upon those views or the experience of the viewer in terms of appreciating these assets and their setting. Moreover, due to its location the carpark/its bunds also do not impact the experience of the viewer in terms of appreciating these assets and their setting. Driveway A and the carpark therefore do not harm the significance of the statues, temples and the fountain/urns.
69. The part of driveway B that is within the mature landscaped belt is relatively close to the rear elevations of the 2 temples. As stated previously the formalisation and surfacing of the driveway has, more likely than not, removed vegetation from the landscaped belt. Whilst trees and landscaping remain between the driveway and the rear of the temples they are now visible from that driveway. The temples were, when they were moved to the Hall,

constructed adjoining the landscaped belt. Due to their architectural detailing and the exposed rough finish to parts of their rear elevations it is apparent that they were designed to be viewed from the front. The exposure of their rear elevations erodes the experience of the viewer in terms of appreciating these assets and their setting. Nevertheless, the architectural detailing and quality of the 2 temples can still be experienced in views from within the informal gardens. Driveway B has therefore resulted in minor impacts to the contribution that setting makes to the significance of the 2 temples.

70. The café building, hardstanding and fences and gateways have been constructed/erected adjacent to a gravel path that leads from the formal gardens to the most northern one of the 2 temples. When walking from the formal gardens on that path, as the temple is located at its one end and the path is relatively straight, the temple acts as a focal point or 'eye catcher'. The café building and the hardstanding adjacent to it are apparent within the views from the path towards the temple but only when you have walked past the last glasshouse and into the informal gardens. This is because the café building is set back from the path whereas the glasshouse is adjacent to it. Moreover, that set back from the path ensures that the café building and the hardstanding themselves are not the focal points. The decked area in front of the cafe is utilised as a seating area and the activity, tables and chairs within that area divert attention to a limited extent from the temple. However, that diversion of attention applies when the viewer is relatively close to the temple and its 'eye catcher' purpose is therefore not materially eroded by it.
71. The fences and gateways are adjacent to the path and restrict access between the areas that have been formed around the café building, the plant sales and entrance into the formal/informal gardens. The timber fence adjoining the plant sales area is of a low picket style similar to that utilised elsewhere around the glasshouses and it does not appear incongruous in this location. The stone pillars and 2 double gates arrangement is unusual given the proximity of the gates to each other. The purpose of the second gate other than as a decorative feature is unclear but given their materials and design the gateways are not visually incongruous. Furthermore, the visual impact of the gateways within views towards the nearest temple are exaggerated by the tall timber pergola that adjoins them. Nevertheless, the pergola is not affected by the requirements of the enforcement notice. The fencing nearest to the temple around the café building is a low post and wire design and its visual impact within the views towards the temple from the path is minimal.
72. The 2 temples, the fountain/urns and the statues are viewed from Beech Walk and from the lawned area that is between these heritage assets. The sloping topography in combination with the heights of the café building, fences/gateways and the distance between them and the heritage assets means that in views, when approaching them from the south, the café building and/or the fences/gateways are not dominant. Nonetheless, the timber clad walls and the green modern production finish on the Upvc windows and doors results in the café building appearing incongruous in those views. This is because most buildings within the gardens are not clad with timber and any windows/doors, if they have a painted finish, are generally white in colour. In these respects, the café building currently draws the eye. Still the timber cladding will more than likely weather to a silver/grey colour. Furthermore, the colour and finish of the windows and doors can be controlled by the imposition of a planning condition if I was minded to allow the appeal. Overall, the impact

of the café building, hardstanding and fences/gateways on the architectural/artistic interest that the setting contributes to the significance of these heritage assets is/would be minor.

73. Moreover, the café building is in the background of those views and in the foreground with some of the statues, the fountain/urns and the temples there were, at the time of my visits, various chairs/tables, fabric gazebos, children's play and art equipment within the lawned area. These items add visual clutter around the informal gardens and the use of the café building may facilitate those activities and items. However, the enforcement notice does not relate to the use of the café building or the activities and items within the lawned area.
74. As stated above, the fences and gateways restrict access between the formal/informal gardens and the areas formed around the café building. There is little evidence before me to indicate if historically there were any boundary treatments around or within the rectangular area that is shown on the 1922 edition of the OS. Yet the TCA appraisal document indicates that at the time it was published that a tall conifer hedge (32) planted in the 1970's was adjacent to the gravel path. There is no indication as to when that hedge was removed. Therefore, the impact of the installation of the fences and gateways, in respect of restricting access, on the contribution that the historic interest of setting makes to the significance of the 2 temples, the fountain/urns and the statues is negligible.
75. Parts of the overall development have/would have no impact on the contribution that setting makes to the significance of the 2 temples, fountain/urn and statues and other parts result in minor/negligible impacts. Therefore, in my judgement, the impact of the whole development is and would be around the lower end of the scale of less than substantial harm on the significance of these heritage assets.
76. Gardeners cottage and its attached gate and gate piers are to the north of the stable block; north lodge and attached walls are to the west of the Hall adjacent to Longstone Lane; the boundary wall that adjoins Longstone Lane is to the north of the Hall; the gates and attached walls at the entrance to the Hall are those adjacent to Longstone Lane; the gatepiers, gates and railings to the Hall are adjacent to the junction of the A6020 and Longreave Lane. South lodge and the gates at the eastern entrance are adjacent to the A6020. The special interest/significance of these buildings is mainly derived from the quality of their architectural and artistic features, age, form, historic fabric and association with renowned designers, architects and the Hall. The retaining wall and grottos are within the part of the garden known as the alpine and rock gardens. Their special interest/significance is largely derived from the quality of their architectural and artistic features, age, historic fabric and association with renowned designers and architects and the Hall.
77. All these buildings contribute to the understanding of the historical connection between the landscape design and the Hall. This contribution is appreciated through their locations in relation to the Hall and that landscape. Nevertheless, their special interest/significance is experienced mainly within their immediate contexts due to the topography, mature landscaping and the location of each of them. That experience and views of them within their immediate contexts and the ability of the viewer to understand and appreciate their significance is

unaffected by the overall development. As such, there is no impact on the contribution that setting makes to their special interest/significance.

78. There are other nearby listed buildings within the RPG and TCA, all grade II. They are Woodlands and garden wall, gates and urns to the south of that building, Downside and Wyedale House. Woodlands and its associated wall and gates/urns were built to act as an entrance lodge from the railway for the Hall. Downside served as the railway station but is now a house. Wyedale House is a converted and extended cottage. The special interest/significance of these buildings is mainly derived from the quality of their architectural and artistic features, age, form, historic fabric and association with renowned designers, architects and the Hall. In the case of Downside also from its historic use and association with the railway.
79. Their special interest/significance is experienced mainly within their immediate contexts due to the topography, mature landscaping and the location of each of them. That experience and views of them within their immediate contexts and the ability of the viewer to understand and appreciate their significance is unaffected by the overall development. As such, there is no impact on the contribution that setting makes to their special interest/significance.
80. In conclusion I have found that the impact of the whole development is and would be around the centre of the scale of less than substantial harm on the significance of the Hall and garden structures and it is and would be around the lower end of the scale of less than substantial harm on the significance of the 2 temples, fountain/urns and statues. Paragraph 202 of the Framework states that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use. The criteria within DMP Policy DMC5 reflect this paragraph of the Framework and therefore it is consistent with the Framework. However, the harm to the heritage assets would not accord with LDF Policy L3, but this policy makes no provision for the consideration of public benefits and in this respect is inconsistent with the Framework. I will return to this issue later in my decision.

Registered Park and Garden and Conservation Area

81. The RPG is a late 19th/early 20th Century designed landscape which has been designated because of its special historic interest. That special historic interest mainly derives from the changes that were made to the landscape associated with the Hall by Marples, Backhouse and Boot. As stated above that landscape is formed of a series of formal and informal gardens, parkland and courtyards and it has historic interest imparted by its design and the features within it. There are 4 RPGs within the PDNP.
82. The TCA boundary is similar to that of the RPG and its significance, character and appearance is also mainly derived from the changes that were made to the landscape at that time and from the quality of the historic buildings and structures within it. The TCA Appraisal document subdivides the TCA into several sub-areas, A through to L. The development has occurred within Area A - The Park and Drive, Area B - the Garden Shelter Belt and Area K - The Productive Garden and Thornbridge Manor. Section 72(1) of the LBCA Act requires that, in the exercise of planning powers in conservation areas, special

attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area.

83. To avoid duplication in this section I will refer to my findings in relation to the impact of the development on the contribution that setting makes to the special interest/significance of the listed buildings. As stated previously, the Hall is located on higher ground and the eastern and southern elevations are designed to take advantage of the views across the gardens and parkland. Moreover, the historic drive within the parkland appears to have been designed to impress any visitors with a sense of arrival to a 'grand country house'. Driveway A and its associated bund traverse through the parkland from the historic driveway through to the new car park. The junction of the 2 driveways is relatively wide and when combined with the painted lines on driveway A it has the appearance of a suburban estate road junction.
84. Driveway A is also appreciably wider than the historic driveway and it effectively divides the part of the parkland that has the lakes/ponds within it from the remainder. I have found that driveway A intrudes into the sense of arrival that the historic drive and parkland provide. However, the parkland and the Hall, remain as the focus of attention for most of the time when travelling along the historic drive towards the Hall. Additionally, the proposed landscaping scheme would remove the painted lines on the drive.
85. For the reasons given previously, the driveway surface is generally not visible but the bund draws the eye and appears as an incongruous feature in the landscape when viewed from the Hall's southern and eastern elevations/terraces. Those views are identified within the TCA Appraisal as wide views. Yet the bund is an appreciable distance from the Hall itself and the bund does not visually compete with the remainder of the landscape in the views from within the Hall. Moreover, the proposed landscaping scheme would reduce and soften the profile of the bund and it would be planted with grassland seed mixtures. This remediation would reduce the visual impact of the bund itself when viewed from the southern and eastern terraces but vehicles travelling along the driveway would still be visible.
86. From the PROW, when walking towards the A6020 the bund and vehicles are apparent in views towards the ponds/lakes within the parkland. Additionally, when walking on the PROW towards the Monsal Trail from the A6020 the driveway and its bund are seen in views with the Hall, the garden structures of the southern terraces and its parkland. Vehicles are clearly apparent and at close proximity as the footpath crosses over the driveway. As such, the drive and vehicles utilising it have and would have a high level of adverse visual effect on views of walkers on the PROW as they approach and cross over driveway A. Moreover, glimpse views into the parkland can be gained from the A6020 between the trees when the woodland is not in full leaf. The driveway and vehicles on it are visible in those glimpse views. Whilst the removal of the painted lines would reduce the estate road appearance of driveway A the remediation works to the bund would not reduce the visual impact of vehicles utilising it when viewed from the PROW and the A6020. Nevertheless, the views from the A6020 are seasonal and glimpse views. Moreover, the remediation works to the bund would soften its visual impact when viewed from the PROW. Even though, there were no bunds within the parkland historically its topography is rolling and undulating therefore after remediation the bund would not appear incongruous.

87. As indicated above, it is highly likely that vehicle movements across the parkland on the unmade track would have been infrequent. Whereas driveway A facilitates frequent vehicle movements during the hours that the house and gardens are open to the public. That movement draws the eye and erodes the historic interest that the parkland makes to the significance of the RPG and the significance, character and appearance of the TCA. Even so the drive is located at a low level with the land either side of it gently rising towards the Hall and the A6020. Moreover, it is viewed from the terraces against the backdrop of the woodland planting that is alongside the A6020. Additionally, in the winter months regular vehicle movements on the A6020 are visible from the terraces and noise generated by those vehicles is audible when standing on the terraces and on the PROW.
88. As detailed previously, it is more likely than not that the landscape designed by Marples and Backhouse included many more parkland trees than currently exist. Those trees would have filtered the views from the terraces out into the surrounding landscape and the current wide views identified within the TCA Appraisal would not have been so wide and open. Furthermore, the original landscape design, in respect of the amount of parkland trees, was therefore not intact immediately prior to the development taking place. Still the construction of driveway A and its bund have had a physical impact on the RPG and the TCA that has eroded their historic interest/significance through the division of the parkland. That division is visual as well as physical and adversely affects the ability of the viewer to appreciate and understand that historic interest/significance.
89. For the reasons given above, in my judgement the introduction of driveway A and its associated bund erodes /would erode the special historic interest of the RPG and has/would have an adverse impact on the significance, character and appearance of the TCA. The proposed remediation measures would alleviate to some extent their impacts, but they would not fully mitigate them especially when viewed from the PROW. Consequently, driveway A and its bund have resulted in and would result in a moderate impact to the significance of these heritage assets.
90. The carpark and its associated bunds are bound to the north by the woodland belt that adjoins the Monsal Trail and to the west by the PROW and the belt of mature landscaping that adjoins the formal/informal gardens. Prior to the works being carried out this part of the parkland was turfed. The parked vehicles and the car park can be glimpsed through the woodland belt from the Monsal Trail. However, it is highly likely that those views are seasonal and will be largely unaltered when the landscaping is in full leaf.
91. Nonetheless, the views from the PROW across this part of the parkland have significantly altered. The view from the PROW across to the ponds/lakes is identified within the TCA Appraisal as a wide view. The tarmac surface, painted lines, cars and the bunds are now imposed on that view. Consequently, the ability of the viewer to appreciate the special historic interest/significance of the heritage assets from that location has been adversely affected to a high degree. The proposed landscaping scheme would replace the painted lines with an alternate marking system and remove several parking spaces to plant trees within them. However, I concur with the evidence of Mr Folland that a higher level of adverse visual effect upon this view, will prevail in the longer term and beyond. As a result, the special historic interest of the RPG and the

significance, character and appearance of the TCA as experienced from the PROW has been significantly eroded. The proposed remediation works to the carpark cannot reverse that erosion.

92. When walking on the PROW from the A6020 towards the Monsal Trail the bunds to the carpark are clearly apparent and they are currently very tall, angular in profile and weed ridden. As such, they currently appear incongruous in the parkland. The bunds are also seen in glimpse views from the A6020. The proposed landscaping scheme would ensure that the profiles of the bunds are significantly altered, and their heights would be appreciably lowered. Furthermore, the bunds would be planted with grassland mixes and native trees and shrubs. Given the rolling and undulating topography the proposals would integrate the bunds into the parkland removing their incongruity. Lowering their height would mean that in the short term to medium term parked vehicles would be more visible. Nevertheless, the tree and shrub planting would eventually assist with screening those vehicles in views from the A6020 and the PROW when walking from that road. Yet that planting would effectively visually move the woodland plantation edge further into the parkland altering the shape and size of that parkland in those views.
93. Therefore, the special historic interest of the RPG and the significance, character and appearance of the TCA as experienced in these views has been adversely affected. The landscaping proposals would integrate the bunds into the parkland and planting on them would eventually screen the parked vehicles. However, they would not fully mitigate the impact of the carpark on the special historic interest of the RPG and the significance, character and appearance of the TCA as experienced in those views. Overall, the carpark has had and would result in moderate impact to the special historic interest/significance of the RPG and the significance, character and appearance of the TCA.
94. As stated above, in relation to driveway B, the visual impact of the landscaped belt has been eroded but the ability to appreciate the overall design of the gardens and the division between them and the parkland still remains. The area parallel to the Monsal Trail also appears to have been a landscaped area between the boundary of the site and an existing hedge. A tarmac surface has been introduced in close proximity to a number of trees. I consider the impact on the trees later in my decision. It is not clear if any vegetation has been removed from this area but the changes to this peripheral part of the site have had little impact on the ability to appreciate the overall design of the gardens associated with the Hall. Therefore, the construction of driveway B has resulted in negligible impact to the special interest/significance of the RPG and the significance, character and appearance of the TCA.
95. The café building and the hardstanding adjacent to it have been constructed on what was mainly a lawned area that appears to have been used as part of the informal gardens immediately prior to the alleged breaches. As stated previously, part of the area had been used in the past as a vegetable garden and it may have been where the kitchen garden was proposed by Marples and I have described the café building, hardstanding and fences/gateways above.
96. They have physically altered a part of the garden area that was designed by Marples and Backhouse. But I have found that the historic interest that this part of the site contributes to the significance of the Hall is limited. For the

same reasons I consider that the contribution that this part of the site makes to the special historic interest of the RPG and the significance, character and appearance of the TCA is also limited. The removal of part of the lawned area and its replacement with tarmac and gravel erodes that limited historic interest. Nevertheless, tarmac and gravel surfaces are prevalent around the gardens and courtyards adjacent to the Hall. Therefore, the materials used do not appear incongruous within the site. Yet what does draw the eye is the painted lines on the tarmac surface but these would be replaced by the alternate marking. The hardstanding would therefore have negligible impact on the special historic interest of the RPG and the significance, character and appearance of the TCA.

97. As stated above, the northernmost temple acts as a focal point or 'eye catcher' when walking on the pre-existing gravel path. I have found that the café building and the hardstanding are not the focal points when on that path and that the decked area to the front diverts attention to a limited extent from the temple. However, that diversion of attention applies when the viewer is relatively close to the temple and its 'eye catcher' purpose is therefore not materially eroded by it.
98. I have also found that the fences and gateways are not visually incongruous in this location and that the low post and wire fence has minimal visual impact within views towards the temple. Furthermore, as stated above the impact of the installation of the fences and gateways, in respect of restricting access, on the contribution that the historic interest of setting makes to the significance of the 2 temples, the fountain/urns and the statues is negligible. Consequently, in my judgement the fences and gateways have negligible impact on the special historic interest of the RPG and the significance, character and appearance of the TCA.
99. As indicated previously the sloping topography in combination with the heights of the café building, fences/gateways and the distance between them and the listed buildings within this part of the garden means that in views, when approaching them from the south, the café building and/or the fences/gateways are not dominant. The roof and top part of the café building is also visible when approaching the site on the PROW, from the bridge over the Monsal Trail. The timber clad walls and the green finish on the windows and doors results in the café building appearing incongruous in those views and currently draws the eye for the reasons given previously. Still the timber cladding will more than likely weather to a silver/grey colour. Furthermore, the colour and finish of the windows and doors can be controlled by the imposition of a planning condition if I was minded to allow the appeal. Moreover, the café building is viewed in the context of other adjacent 'service' buildings.
100. From the informal gardens, the café building is in the background of those views and in the foreground, at the times of my site visits, there were the items described previously. These items add visual clutter around the informal gardens and the use of the café building may facilitate those activities and items. However, the enforcement notice does not relate to the use of the café building or the activities and items within the lawned area. Overall, I consider that the café building has/would have minor impact on the special historic interest of the RPG and the significance, character and appearance of the TCA.

101. Regarding the whole development, I have found that parts of that development have/would have a moderate impact, other parts result/would result in minor/negligible impacts and in respect of the trees the significance/special interest of the RPG and the significance, character and appearance of the TCA would be preserved. However, the degree of harm must also be considered in the context of the sum of the significance of the RPG and the TCA as a whole. Therefore, in my judgement, the impact of the whole development is and would be just above the centre of the scale of less than substantial harm on the significance of the RPG and the TCA. As both the RPG and the TCA are designated heritage assets the balance in paragraph 202 of the Framework and DMP Policy DMC5 is relevant. As stated previously, the harm to the designated heritage assets would not accord with LDF Policy L3, but this policy makes no provision for the consideration of public benefits and in this respect is inconsistent with the Framework. I will return to this issue later in my decision.

Trees

102. All the trees that may be harmed by the development are within the RPG and the TCA, but none are protected by a Tree Preservation Order (TPO). Trees in a conservation area that are not protected by a TPO are protected by the provisions in section 211 of the 1990 Act. There is consensus that most of the trees make a positive contribution to the character and appearance of the TCA and the significance of the RPG. These trees are within the parkland, within the woodland plantation adjacent to the Monsal Trail and the mature landscape belt that is adjacent to the PROW.

103. British Standard BS 5837:2012 (the BS), Trees in relation to design, demolition and construction provides guidance and recommendations and as stated within the foreword it should not be quoted as if it were a specification. The Authority maintains though that the survey work and evidence submitted by the appellant is deficient to demonstrate that the development is acceptable in terms of its relationship to trees.

104. A central tenet of the BS is the establishment of Root Protection Areas (RPAs) to define the minimum area around a tree adequate for sufficient roots and rooting volume to maintain the tree's viability. The calculation of the RPA should be based on a circle with a radius 12 times the stem diameter. However, where pre-existing site conditions suggest asymmetrical growth, modifications of the RPA can be justified based on sound arboricultural assessment of likely root distribution. The Authority has also referred to the National Joint Utilities Group (NJUG), Guidelines for the planning, installation and maintenance of utility apparatus in proximity to trees. These guidelines include a diagram (Figure 1) illustrating a Tree Protection Zone (TPZ) and three zones within that TPZ and they were developed in response to the installation of utilities within streets.

105. Whilst RPAs are in essence theoretical constructs, they provide an awareness of development constraints in relation to trees. They do not seek to define the whole of the rooting structure, but rather the minimum area to be protected as priority in order to support the trees continued vitality. As such, any incursion into this area may harm the trees continued vitality. At paragraph 7.4.2.3 the BS states that new permanent hard surfacing should not exceed 20% of any unsurfaced ground within the RPA.

106. Driveway A has been constructed within the RPAs of 6 parkland trees (10, 13, 16, 17, 21 and 39)⁸ and the bund associated with the drive has also been built up within the RPAs of 2 of those trees (10 and 21). The construction of the driveway may have involved invasive works to the tree roots within the RPAs but the specific construction methods and depth of construction in those areas is not known. The balance of evidence before the Inquiry indicates that roots will find it difficult to grow where there is little moisture or gaseous exchange, or where the soil is compacted, as would typically be found under a tarmac hardstanding/drive. Whilst there may be exceptions to this, for the most part it is expected that hostile conditions for root growth prevail where a tarmac hardstanding/drive has been constructed. The building up of the bund whilst not involving invasive works, this has the potential to cause soil compaction and thereby a reduction in oxygen levels reaching roots. Nonetheless, through the reprofiling of the bund/s some mitigation may be possible.
107. There are no specific figures for what percentage of the RPAs have been impacted by these works. The RPAs are drawn as circles and there was more than likely some compaction of the soil from the use of the unmade track. However, as stated previously the use of that track by vehicles was highly likely to be infrequent and therefore there is little to indicate that pre-existing ground conditions would have suggested asymmetrical growth. As such, it is more likely than not that an area of appreciably more than 20% of the RPAs of each of 2 trees (10 and 21) has been impacted by driveway A and its bund. The other 4 tree RPAs are likely to have been impacted by less than 20%. The evidence before me also indicates that three parkland trees (12, 20 and 40) are either dead or dying and that this condition pre-dated the construction of the development.
108. The carpark has resulted in a large area of tarmac hardstanding being laid and part of that hardstanding encroaches within the RPAs of 2 large horse chestnut trees. Furthermore, the carpark bund also appreciably encroaches within one of the RPAs of those trees. That tree's RPA has been impacted by appreciably more than 20% by the carpark and its bund. The woodland plantation adjacent to the Monsal Trail bounds the one side of the carpark. The Authority considers that there are around 40 trees within the edge of the woodland that have been impacted by the laying of the tarmac hardstanding for the carpark. The trunks of those trees are around 3.5m from the edge of the tarmac according to Mr Anderson's oral evidence. I observed that most of the trees within that plantation, nearest to the carpark edge, appear to be relatively small in trunk diameter and overall size. There are a few more mature, larger trees. The RPAs of the woodland trees are not shown on the submitted drawings but from my observations it appears that the tarmac hardstanding for the carpark may have had an impact on the RPAs of those trees nearest to the carpark that are the more mature, larger ones.
109. Driveway B has been constructed near several trees and the RPAs of those trees are not shown on the submitted drawings. The Authority considers that 5 trees within the mature landscape belt and 5 trees adjacent to the Monsal trail have been impacted by its construction. I observed that the tarmac drive is in places virtually touching the trunks of some of those trees and is within one metre of the trunks of the remainder of those 10 trees. The NJUG guidelines

⁸ As shown on drawing No: M3406-PA-08-V1

indicate that within one metre of the trunk there is a prohibited zone where excavations of any kind must not be undertaken within this zone unless full consultation with the Local Planning Authority has been undertaken. I appreciate that these guidelines were compiled with regards to utility companies and trenches being dug very close to street trees in the late 20th Century. However, it is referred to within the BS and it reflects the guidance in the BS.

110. Moreover, whilst the appellant contends that an access track was in place within the landscape belt there is little evidence before me to indicate how long that access track had been in place and how it was surfaced. In any case, driveway B has impacted on significantly more than 20% of the RPA of each of the 10 trees near to that drive. Two other trees that were near to driveway B have failed in storms recently. There was consensus at the Inquiry that the causes of the failure of those trees is a complex matter that cannot be attributed to the development. One of the trees was known to have a large hole at its base prior to the development starting.
111. The tolerance of different species of trees to impacts within their RPA varies, but there is consensus that mature trees recover more slowly than young trees from impacts within their RPAs. The effects of harmful works to trees and their decline is a complex physiological process, the visible effects of which are not immediately apparent. It would typically commence with arrested or impeded shoot growth, then the dieback of branch ends, with this progressively leading to dieback of larger lateral branches or of leading stems. Indeed, the progressive depletion of carbohydrate/sugar reserves as a result of the reduced photosynthetic capability would lead to greater susceptibility to pathogens or fungal decay and can begin the mortality spiral for the tree. Unsurprisingly, trees that have previously suffered root damage, are at greater risk of disease which can be fatal, albeit this can take some time after the initial works to become evident.
112. In summary, there are a range of elements of the development involving some degree of impact to the RPAs of the identified trees. On the basis of the evidence before me it is inevitable that localised harm to some of the trees within the RPG and TCA has occurred. In my judgement, the 2 trees (10 and 21) near to driveway A, the 10 trees near to drive B and the one-horse chestnut close to the carpark bund are at greatest risk of harm to their future vitality. This is due to the percentage of their RPA that is impacted by the development and the proximity of the hard surfacing to their trunks in respect of the trees near to driveway B.
113. Nonetheless, the complexity of the physiological processes involved in determining tree health and vitality mean that it is impossible to predict outcomes for future tree health with any degree of certainty. The robust nature of some of the trees impacted is a positive factor. Nonetheless, the majority of trees, where there has been an impact on their RPAs, are mature trees that may not be as tolerant of change as younger trees. Therefore, I conclude that it is possible that the impact of this development may lead to the ill-health and decline, and potentially the loss of one or more of these trees. However, this is not an inevitable outcome and the trees might well survive to achieve their life expectancy.

114. On the one hand, the balance of probability is that the development has caused harm to several trees. This harm would have the clear potential to result in their longer-term decline and ultimately to their replacement in the future. Soil amelioration within the RPAs of the trees impacted by the development may mitigate to some extent that impact on those trees and could be required by a planning condition. However, there is no guarantee that soil amelioration would fully mitigate that impact. Their decline and possible eventual loss would have an adverse effect on the significance of the RPG and the character and appearance of the TCA if all those trees died and were not replaced. On the other hand, such decline given the overall number of trees within the RPG and TCA could be managed, and ultimately remediated by replanting. Nevertheless, the trees near to driveway B are part of the mature landscape belt that defines visually and physically the boundary between the parkland and the formal/informal gardens. Therefore that landscape belt makes an important and positive contribution to the significance/special interest of the RPG and the significance, character and appearance of the TCA.
115. The appellant has submitted a succession parkland tree planting schedule (the schedule) and landscaping proposals that involve planting 11 trees within the parkland and 10 within the carpark and numerous native trees on the car park bunds. A compensation tree planting scheme such as the Capital Asset Value for Amenity Trees (CAVAT) and whether it would mitigate the impacts of the development was also put to Dr Stout and Mr Anderson during the Inquiry.
116. I consider that the schedule would mitigate to some extent the potential harm to the parkland and its trees derived from the construction of driveway A and its bund. Nonetheless, during the Inquiry it was stated on behalf of the appellant that the 11 trees proposed only comprised phase 1 of that schedule. The proposed and future phases of the schedule would remediate to some extent the potential physical and visual impacts of driveway A and its bund on the parkland and its trees. It is therefore necessary to make the development acceptable and it is relevant to that development. Consequently, the schedule could be required by the imposition of a planning condition.
117. The submitted landscaping proposals in relation to the car park and driveway A, in combination with the schedule, would provide some mitigation, in respect of the potential impact on trees due to those parts of the development. However, if the 10 trees adjacent to driveway B decline and eventually have to be removed there are no proposals to replace them or undertake succession planting within this area. As I have found that these trees are amongst those at the greatest risk to their future vitality a compensation tree planting scheme would ensure that these trees and others that may be impacted by the development could be compensated through additional tree planting. The implementation of the landscaping proposals and a compensation scheme are necessary to make the development acceptable and they are relevant to that development. Therefore, they could be required through the imposition of planning conditions if I was minded to allow the appeal.
118. In my judgement, with the imposition of planning conditions the potential harm to the trees can be mitigated and compensated for. As such, in this respect, the significance of the RPG and the significance, character and appearance of the TCA would be preserved. I therefore consider that DMP Policy DMC13 would be complied with.

National Park

119. The statutory purposes of National Parks are; to conserve and enhance the natural beauty, wildlife and cultural heritage; and to promote opportunities for the understanding and enjoyment of the special qualities of National Parks by the public. If it appears that there is a conflict between those purposes, it is my statutory duty to attach greater weight to the purpose of conserving and enhancing the natural beauty, wildlife and cultural heritage of the PDNP.
120. The Framework requires that great weight should be given to conserving and enhancing landscape and scenic beauty in National Parks which have the highest status of protection in relation to these issues. The site is within the Derwent Valley Landscape Character Area and the Landscape Character Type is defined as Estatelands within the LSAP. Its key characteristics include; large historic halls and houses set in parkland; a varied undulating topography with steep slopes in places and large blocks of plantation woodland. The Landscape Strategy states that within Estatelands the priority is to protect the historic estate character of the landscape and maintain and enhance parkland and veteran trees whilst seeking opportunities to create broadleaved woodland where compatible with the historic designed pattern. It also states that there is a need to protect the historic integrity of these landscapes whilst allowing them to evolve.
121. Consequently, the Estatelands landscape character is inextricably linked to the significance of the RPG and the other heritage assets cited previously and the impact of the development on them. As stated above, the car park and driveway A have and would have a higher level of adverse visual effect on views of walkers on the PROW in the long term. Those adverse visual effects would be localised to viewers walking on the PROW in close proximity of driveway A and the carpark. The urbanising impacts of those parts of the development would not conserve the natural, landscape and scenic beauty of that part of the PDNP. Moreover, I have found that the development results/would result in less than substantial harm to the significance of the designated heritage assets.
122. On the other hand, the plantation woodland belts adjacent to the majority of the boundaries of the appeal site means that long and medium distance views of the historic park and garden from outside the site are largely unaffected by the development within it. Nevertheless, parts of the development can be seen from the Monsal Trail, the A6020 and from the bridge over the Monsal Trail on the PROW. However, the views from the Monsal Trail and the A6020 are seasonal due to the plantation woodland. The visual impact of the overall development on the wider PDNP is therefore limited. The development enables recreation and accommodates growth and intensification of an existing business.
123. However, in my judgement the natural, landscape and scenic beauty of the PDNP would not be conserved given that the character of the landscape is inextricably linked to the significance of the RPG and the other cited designated heritage assets. Therefore, in that respect, the development results/would result in conflict with LDF Policies GSP1, GSP2, GSP3, L1, L3, RT1, E2 and DMP Policy DME7.

Archaeological interest

124. In 1995 an archaeological survey (Bevan 1995) was carried out within the parkland associated with the Hall. It identified several archaeological features within the parkland. These included a short, shallow lynchnet adjacent to the PROW within the area where the carpark has been constructed. A lynchnet is defined within Bevan 1995 as *'an artificial bank formed by a build-up or loss of soil against a field boundary, or deliberately produced as the downslope edge of a cultivation terrace along a slope. Lynchets are usually found running along slopes and accumulate soil upslope from downward movement of soil after ploughing which is trapped by the boundary. They lose soil downslope where ploughing cuts into the slope. Where a boundary has later been removed, a lynchet is often the main evidence that a wall or hedge once existed. Those forming cultivation terraces often appear in groups and date from the Medieval period and once lay within open fields.'*
125. Bevan 1995 assessed the lynchnet as being of local importance and it is reasonable to consider that due to its archaeological interest that for the purposes of the Framework that it can be treated as a non-designated heritage asset. Paragraph 203 of the Framework states that in weighing applications that directly or indirectly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset. There is no dispute that due to the construction of the carpark that the development may have removed, damaged or truncated this archaeological feature. However, as the depth of that construction is not known and no archaeological evaluation was carried out prior to the development being constructed the precise impact of it on the lynchnet is uncertain. Nevertheless, it is more likely than not that the works to level and construct the carpark have, at the least, damaged/truncated the physical evidence of the lynchnet and therefore its significance has been appreciably eroded.
126. Geophysical surveys carried out in May 2022 identify a number of anomalies that are most likely a result of medieval or post-medieval agricultural activity in the parkland adjacent to driveway A. It is therefore more likely than not that, the construction of driveway A may have damaged or removed sections of archaeological features associated with that agricultural activity. There is no dispute that these features are unlikely to have been of schedulable quality but due to their archaeological interest they are likely to have been non-designated heritage assets. That physical damage is likely to have appreciably eroded the significance of those assets.
127. The statement of common ground in respect of archaeological matters states that the impact on potential archaeological deposits in the area of the café building is less clear. This is because the garden archaeology relating to the former vegetable/productive garden, if present, was likely to be within the levels of 'made ground' identified within the records of a borehole taken in the 1930's. Even though the café building has no foundations the disturbance of erecting that building and laying the hardstanding adjacent to it may have damaged that garden archaeology if it was present. However, there is little evidence to indicate that any features with archaeological interest would be present in this part of the site.

128. Overall, I consider that based on the evidence before me that the development is, on the balance of probability, likely to have appreciably eroded the significance of non-designated heritage assets relating to the agricultural activity within the parkland. I will return to this matter below.

Other Matters

129. The reasons for issuing the enforcement notice included whether the development effected the biodiversity/ecological interest of the site; whether the development effected the transport network and highway safety and the effect of the development on a public right of way. Furthermore, several third parties raised; whether the development had affected flood risk; the installation of signage, that the development had been carried out without planning permission and future proposals for the site.
130. During the appeal process the appellant submitted an extended phase 1 habitat survey (habitat survey), a technical note, a biodiversity impact assessment and an ecological note regarding any implications that the Beavers (England) Order 2022 has with regard to the ground (a) appeal. The conclusion of the habitat survey found that no protected species have been affected by the construction of the driveways, car park and café area. It also states that the habitats that have been impacted are species poor and of limited ecological value and that a small part of UK Priority Habitat has been lost (Wood Pasture and Woodland) but this is in abundance on the estate and only grassland has been affected. The technical note concluded that there is considered to be no conflict with the development and LDF Policy L2 and DMP DMC11 due to no features of biodiversity importance being adversely affected and the development achieves Biodiversity Net Gain (7.4%). The ecological note found that the development has not affected suitable beaver habitat, either directly or indirectly, and the continued use of the development will not affect beaver habitat, either directly or indirectly.
131. The Authority has stated that although ecological concerns are not a major reason for objecting to the development, the submitted habitat survey has not fully addressed the impact of the development on the ecological interest, particularly in relation to the existing tree stock. In relation to the existing trees I have found that with the imposition of planning conditions the potential harm to the trees can be mitigated and compensated for and I consider this includes the potential ecological impacts. The submitted documents indicate that the development achieves Biodiversity Net Gain and I have no reason to dispute those findings.
132. A Transport Statement was also submitted in support of the deemed planning application for the development and a briefing note relating to updated visitor information and the highways and transport implications of this additional information in the context of previous transport submissions. Based on those documents the Highway Authority have stated that there are no highways objections to the development subject to the imposition of planning conditions. I have no reason to dispute those findings.
133. I have found that the fence, gateways and stiles within the parkland benefit from the permitted development rights in Class A of the GPDO. Therefore, they do not form part of the deemed planning application before me. Moreover, the gateway and stiles cited within the enforcement notice have been modified by the installation of 'kissing gates'.

134. A Flood Risk Statement and Surface Water Management Report together with drawings indicating proposals to meet the recommendations of that report and a drainage briefing note are part of the evidence before me. There was disagreement at the Inquiry between the main parties in relation to those proposals and their potential implications in relation to heritage and tree matters. Nevertheless, there was consensus between the main parties that a suitably designed scheme could overcome any issues in relation to flood risk and that this matter could be resolved through the imposition of planning conditions. I have no reason to dispute that finding.
135. The enforcement notice does not cover the installation of advertisements/signage. Therefore, it does not form part of the deemed planning application before me. In addition, I have found that it is likely that signage throughout the site would be dealt with through the preparation of the Conservation Management Plan (CMP). Moreover, whether the cited signage requires deemed or express consent is controlled through the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 rather than the 1990 Act.
136. The fact that the development has been carried out without planning permission is not a reason in itself to dismiss the appeal. The enforcement system is intended to be remedial rather than punitive and the development should be judged against material planning considerations. Moreover, any future proposals for the site would need to be determined taking into account all material considerations at that time. While I understand that my decision will be disappointing for some local residents, the information before me does not lead me to conclude that these other matters, either individually or cumulatively, would be an over-riding issue warranting dismissal of the appeal.

The Planning Obligation (UU)

137. The UU was considered in detail at the inquiry. It was engrossed on 20 January 2023. I have considered the various obligations with regards to the statutory requirements in Regulation 122 of the Community Infrastructure Levy Regulations (the CIL Regulations) and the policy tests in paragraph 57 of the Framework. It should be noted that the Deed contains a "blue pencil" clause in the event that I do not consider a particular obligation would be justified in these terms.
138. The UU requires the appellant and Andromeda Park Limited to pay 50% of the annual profit after tax (the proceeds) of Andromeda Park Limited, up to a maximum of £200,000 per annum, into a bank account. An annual statement showing the calculation of the proceeds is also required to be submitted to the Authority. The proceeds are to be used to carry out specified repair/renovation works to the 3 temples within the gardens of the Hall within the first 12 months after the date of this decision. The UU also requires the submission of a CMP within 12 months of the date of this decision, to manage the site complying with the CMP where appropriate, to submit annually a proposed programme of works once the CMP has been submitted and to review and update the CMP at least every 5 years. The proceeds would also be used to carry out further works in accordance with the CMP and the annual programme of works.
139. An imposed planning condition would also require the submission of a CMP. However, the requirements of the UU would ensure that the management of the site is carried out in accordance with the CMP, that the CMP is reviewed on

a regular basis and that an annual programme of works is submitted to the Authority and the proceeds utilised to implement that programme of works. The planning condition would ensure that the initial submission of the CMP is easier to enforce for the Authority. I therefore consider that in this case that the planning condition can sit alongside the obligations within the UU.

140. Whilst a CMP can be produced to inform applications for planning permission and/or listed building consent they can also be produced and utilised to manage and conserve historic assets especially where there are numerous assets within a site such as here. Prior to the development being carried out the site was used for weddings and conferences and a 'pop-up' café operated 2 or 3 days a week when the gardens were open to the public (April through to September). Nonetheless, with the development in place the gardens and café building are now open 7 days a week throughout the year. This has increased the number of people and vehicles visiting and accessing the site. That increase is likely to lead to the buildings and gardens being more vulnerable to damage and erosion, heritage crime or vandalism. Moreover, a lack of maintenance and repair of the buildings and gardens/parkland by past owners of the site in combination with that damage/erosion could result in safety risks to visitors as well as the loss of heritage interest. In addition, the CMP is necessary so that an informed approach can be taken with regard to the balance between the commercial and heritage interests involved in operating the visitor attraction and events with the additional visitors/vehicles on the site.
141. The submission of the CMP would pull together an understanding of what matters and why, and how to conserve and manage it. I acknowledge that the production of the CMP prior to the development being undertaken would have been advantageous for both main parties and it may have avoided some of the impacts to the significance of the heritage assets that have occurred. Nevertheless, the CMP is necessary to manage the implications of the increases in visitor numbers and the obligations of the UU would ensure that the proceeds from the development are utilised to repair and conserve the site and the heritage assets within it. The proceeds are not a fixed sum each year, but I heard at the Inquiry that Andromeda Park Limited is a sound company that has been operating for many years. Moreover, based on the business plan and forecasts within the evidence before me it is more likely than not that the net profits of that company would ensure that the proceeds would be somewhere between £100,000 and £200,000 per annum.
142. For the reasons given above and taking account of all of the information provided to the Inquiry, I am satisfied that the planning obligations in the UU are necessary to make the development acceptable in planning terms, directly related to the development and are fairly and reasonably related in scale and kind to the appeal development. They meet the statutory requirements of Regulation 122 in the CIL Regulations and the policy requirements of paragraph 57 in the Framework. I am therefore able to take them into account in my decision.

Public Benefits

143. On a general point, the same material considerations apply to a planning application that was submitted for a proposal as they do for a deemed planning application relating to an enforcement notice. As a result, where retrospective

consent is being sought the public benefits ascribed to that development should be attributed the same weight as if the development was a proposal. Public benefits should flow from a development. The PPG states that public benefits may follow from many developments and could be anything that delivers economic, social or environmental objectives as described in the Framework. Heritage benefits are to be treated as public benefits and can include reducing or removing risks to a heritage asset and securing the optimum viable use of a heritage asset in support of its long-term conservation.

144. The authority argue that the optimum viable use of the Hall is principally as a private home and that is its current use. The visitor attraction, events and a café have all been generating income prior to the development taking place therefore the Authority does not consider that the development is required to secure the optimum viable use of the Hall. It also considers that a CMP is something which could have been undertaken independently at any time and that the 'community benefits', essentially allowing for greater public access to the Hall and associated land, could all be provided or achieved without the development and are not dependent on it.
145. The Hall itself is primarily used as a dwelling and, as stated above, prior to the development being carried out the site was used for weddings and conferences and a 'pop-up' café operated 2 or 3 days a week when the gardens were open to the public (April through to September). The overall use has therefore not altered and there are no other uses suggested within the deemed application. Therefore, whether the optimum viable use of the designated heritage assets is/would be secured by the development provides very limited weight in support of it.
146. Nevertheless, the development would result in heritage benefits. I have found above that the provision of a CMP is necessary. Whilst that CMP could have been provided independently that misses the point that should conditional permission be granted the CMP would have to be implemented as part of it. The CMP would enhance the knowledge and information available relating to the special interest and significance of the whole site. It would also enable an informed approach to be taken with regard to the balance between the commercial and heritage interests involved in operating the visitor attraction and events with the additional visitors/vehicles on the site.
147. A condition survey of all the structures within the site would be undertaken as part of the CMP and an annual work programme would be produced utilising the recommendations within the CMP. I consider that this would ensure that extensive repair and maintenance work to the listed buildings is brought forward each year. This includes repairs and renovations to the 3 temples within the first 12 months if planning permission is granted. As set out above, the proceeds would finance those programmes of work and would be secured through the UU. Given the amount of finance that is likely to be generated this would go a long way towards securing the long-term repair and maintenance of this group of heritage assets. Moreover, the preparation of the CMP would provide a road map for the immediate future meaning that the risk of any further harm through incremental and/or cumulative changes would be minimised. These benefits attract substantial weight.
148. In addition, succession tree planting within the parkland would have to be implemented as part of the conditions if I was minded to allow this appeal.

Even though, this would in part mitigate the impacts of the development it would also ensure that trees within the parkland are retained/replanted in the long-term. This would enhance the special interest of the RPG and the significance of the TCA and the contribution that setting makes to the significance of the Hall. The succession tree planting attracts moderate weight.

149. I acknowledge that public access through the site was available utilising the PROW, yet, from the PROW only a section of the overall site can be experienced. Public access was also available at certain times of the year for a 2 or 3 days per week. It seems to me that the provision of the separate café building, and the additional car park has facilitated the opening of the site to the public when other events are occurring at the site. Moreover, if visitors know that an attraction is open 7 days a week and that they can access it easily by car, walking or cycle then they are likely to visit it more often. This was borne out by the oral evidence of many of the third parties. Therefore, it is more likely than not that the development has resulted in the provision of public access to the gardens 7 days a week and the house 4 days a week throughout the year. Therefore, the increase in opportunities for the general public, the various community groups, schools and other organisations to experience the Hall and its grounds have, in my judgement, followed from the development. This reveals the significance of the heritage assets to a much wider audience than prior to the development taking place. That public access also has social benefits by supporting the communities' health and social well-being. Several third parties have provided oral and written evidence of how the access to the facilities and gardens within the site has aided their physical and mental health.
150. Even though the proposed parkland walk would not be required by the imposition of a planning condition it is highly likely to be put in place by the appellant. This is because it would economically benefit the operation of the site as it would retain visitors on the site for longer and diversify the nature of the attraction for those visitors. Therefore, even though it would attract initial formation and then future maintenance costs, given the low-key nature of the proposed walk, it is highly likely that the economic benefits would exceed those costs. Moreover, it would flow from the increase of visitor numbers that has and would be generated by the development. It would also help to reveal the significance of the wider site to that wider audience. Overall, I consider that the heritage and social benefits arising from the increase in public access to the site attracts significant weight in support of the development.
151. The café building and the toilet facilities within it are available to users of the PROW and the Monsal Trail. This results in social benefits for the users of both the PROW and the Monsal Trail. New jobs have been created by the additional opening hours and the dedicated café building. These social and economic benefits are ascribed moderate weight.
152. The proposed landscaping scheme that would be implemented through the imposition of planning conditions would result in net gains to biodiversity and this would be over and above what is required as mitigation and therefore those net gains offer a wider public benefit. This attracts minor weight as a public benefit.
153. Drawing all of the above matters together it seems to me that a wide range of public benefits flow/would follow from the development. Whilst individually

the weight that I have given them varies, when taken together I consider that the package can be given very significant weight on the positive side of the planning balance.

Heritage balance

154. Paragraph 202 of the Framework requires a balance to be struck in each instance of less than substantial harm to the significance of a designated heritage asset. This is explicitly defined as a single requirement and should therefore be applied to each of the assets affected. Within my reasoning above, I have detailed my findings on the impacts of the different parts of the development on the heritage assets taking into account all of the oral and written evidence before me. I have found that the impact of the whole development is and would be around the centre of the scale of less than substantial harm on the significance of the Hall and garden structures and it is and would be around the lower end of the scale of less than substantial harm on the significance of the 2 temples, fountain/urns and statues. Moreover, the impact of the whole development is and would be just above the centre of the scale of less than substantial harm on the significance of the RPG and the TCA. Where there is more than one instance of such harm, as in this case, these should be considered cumulatively. My reasoned judgement is that the harm calibrated cumulatively is and would be at no greater than a medium degree above moderate and centre within less than substantial harm.
155. In applying paragraph 202 of the Framework, I am mindful that the balance is not even, and that great weight must be given to the conservation of the heritage assets in accordance with paragraph 199 of the Framework. Whilst the magnitude of harms may vary in relation to each asset, the workings of sections 66(1) and 72(1) of the LBCA Act mean that this harm must be accorded considerable importance and weight. In my judgement, the harm that has occurred to the significance of the designated heritage assets, either individually or cumulatively, is outweighed by the package of public benefits the development has and would bring forward. As a result, the development accords with DMP Policy DMC5. In terms of the Framework, the balancing exercise in paragraph 202 is in favour of the development. This is an important material consideration.

Conditions

156. A list of planning conditions was drawn up by the main parties and these were discussed at the Inquiry. My consideration has taken account of paragraph 56 of the Framework and advice in the PPG. In particular I have had regard to the Government's intention that planning conditions should be kept to a minimum. I have changed the detailed wording in some cases to ensure that the conditions are precise, focused and enforceable.
157. Conditions 1, 2, 3, 4, 5, 6, 7, 9, 10, 11, 12 and 13 are imposed to ensure that the required details are submitted, approved and implemented so as to make the development acceptable in planning terms. There is a strict timetable for compliance because permission is being granted retrospectively, and so it is not possible to use negatively worded conditions to secure the approval and implementation of the outstanding matters before the development takes place. The conditions would ensure that the development can be enforced against if the required details are not submitted for approval within the period given by the condition, or if the details are not approved by the local planning

authority or the Secretary of State on appeal, or if the details are approved but not implemented in accordance with an approved timetable. As the development enforced against is operational development it is that operational development that has to be removed if the condition/s is/are not discharged. I have included the reasons for imposing each condition within the schedule annexed to this decision.

158. The suggested condition 3 has been split to ensure that the RPAs of the trees impacted by the development are identified within a submitted tree survey (condition 4) and then a soil amelioration plan is required to be submitted for those RPAS (condition 5). As the suggested condition 4 follows on from the scheme submitted and approved within condition 1 it is logical to move it so that it becomes condition 3.
159. Resurfacing of all the tarmac areas that are part of the development, as required by suggested condition 6, is not necessary. This is because I have found that the use of tarmac is not incongruous. However, the painted lines on driveways A and B, the carpark and the area of hardstanding adjacent to the café building draw attention to those areas and they appear out of place. Therefore, it is necessary for those lines to be removed/replaced with an alternative material. I have altered the wording of the suggested condition accordingly.
160. The Authority's suggested condition 7 is not necessary as I have found that the bunds are necessary to mitigate the visual impact of the development and would be acceptable if modified to comply with the submitted landscape proposals. Condition 7a suggested by the appellant is not necessary as the landscaping proposals would be controlled through the imposition of conditions 1 and 2 within the schedule.
161. Suggested condition 9 is not necessary as it would duplicate the requirements of condition 7. I have amended the wording of condition 7 to ensure that the lining out of the carpark is maintained thereafter.
162. The suggested conditions 10 and 16 are not necessary as those details would form part of those required to be submitted under condition 9 (in the schedule). As such, I have not imposed the suggested conditions 10 and 16. At the Inquiry the Authority withdrew the suggested condition 12 as it was no longer deemed necessary.
163. Suggested condition 15 relates to restricting the hours of use of the café. I acknowledge that the deemed planning application relates to operational development and not the use of the café building. However, section 75(2) of the 1990 Act states that where planning permission is granted for the erection of a building, the grant of permission may specify the purposes for which the building may be used. Therefore, I consider that a condition can be imposed restricting the hours of operation of the café if that condition meets the tests within paragraph 56 of the Framework.
164. The nearest dwelling is Gardener's Cottage, but it is a significant distance from the café. Users of the Monsal Trail and the PROW pass relatively close to the cafe but they are close to it for a short period of time. Moreover, there is little evidence before me to indicate that the use of the café building has caused any noise and disturbance to any nearby residents or users of the PROW or Monsal Trail since it has been open. In addition, the café is only open

in an evening for specific events such as Bonfire Night. As a result, I do not consider that suggested condition 15 to restrict the hours of operation of the café building is necessary.

165. Both parties have suggested a condition in relation to removing the café building after 3 or 5 years. However, I have found that on balance the development is acceptable therefore a temporary permission for the café building is unnecessary. I have therefore not imposed suggested conditions 17 nor 17a.
166. The suggested condition 18 requires that if within 10 years from the date of this decision the gardens at Thornbridge Hall cease to be open to the public for a period in excess of 6 months, driveway A, the car park, associated engineering works, café and fences shall be removed from the land. However, whilst desirable, the gardens remaining open to the public is not necessary to make the development acceptable in planning terms. As such, I have not imposed this condition.
167. The suggested condition 19 relates to the submission of a CMP. As stated above, I consider that in this case the CMP is necessary to ensure that the implications arising from the increase in visitors to the site are managed. I have also found that in this case that the suggested condition can sit alongside the obligations within the UU.
168. The suggested condition 20 relates to the submission of details relating to a scheme for a parkland walk. I have found that the parkland walk is likely to be implemented by the appellant as it would broaden the visitor experience, retain visitors on the site for a longer time and ultimately ensure more visitors enter the site. I have also found that it can be treated as part of the public benefits flowing from the development. However, it is unnecessary to ensure that the development is acceptable and therefore the condition is not imposed.
169. Suggested condition 21 relates to the submission of details relating to succession parkland tree planting. I have found that the succession parkland tree planting is necessary to partly mitigate the impacts of the development. Those details would relate to additional landscaping within the site. Therefore, with amendments to condition 1 I consider that a separate condition relating to this matter is unnecessary. As such, I have not imposed this specific condition.
170. Suggested condition 22 relates to a scheme of signage across the site. Whilst a comprehensive signage strategy would improve the visual amenity throughout the site it is not necessary to make the development acceptable. Moreover, it is more likely than not that the CMP would include and consider this matter within its recommendations. As such, I have not imposed this condition.
171. Even though the wording for a condition relating to the windows and doors of the café building was not suggested by either main party such a condition was discussed at the Inquiry. As noted above, the colour and finish of those windows and doors currently draws the eye and appears incongruous in this setting. A condition to require details to be submitted on altering/replacing the windows and doors and for those details to be implemented is therefore necessary.

Conclusions and Overall Planning Balance – ground (a) and deemed planning application

172. I have found that the natural, landscape and scenic beauty of the PDNP would not be conserved given that the character of the landscape is inextricably linked to the significance of the RPG and the other cited designated heritage assets and that in that respect, the development results/would result in conflict with LDF Policies GSP1, GSP2, GSP3, L1, L3, RT1, E2 and DMP Policy DME7. The LDF was adopted prior to the publication of the Framework and the wording of Policy L3 is not consistent with paragraph 202 of the Framework. As such, little weight is attached to the conflict with LDF Policy L3 in this regard. On the other hand the rest of the LDF Policies cited above and the DMP Policy are broadly consistent with the Framework. Nonetheless, I have found that the harm to the landscape, scenic and natural beauty of the PDNP is inextricably linked to the harm to the significance of the designated heritage assets. Moreover, I have found that the development complies with DMP DMC5 when the heritage balance is undertaken.
173. The erosion of the significance of the non-designated heritage assets given that they are likely to have been of local importance modestly weighs against the development. Nevertheless, on balance and it is a fine one, the public benefits would outweigh the overall harm to the designated and non-designated heritage assets. As the harm to the natural, landscape and scenic beauty of the PDNP derives from the harm the heritage assets I conclude that overall, the development can be judged to be in accordance with the development plan when read as a whole.
174. There are no material considerations of sufficient weight to justify anything other than granting planning permission for the development. For the reasons given above, I conclude that the appeal succeeds on ground (a). I shall grant planning permission for the development as described in the notice (as corrected). The appeals on grounds (f) and (g) do not therefore fall to be considered.

Formal Decision

175. It is directed that the enforcement notice is corrected by:
- deleting the wording '*and matching its appearance to the adjoining grassland*' at the end of requirements a) and c).
 - deleting drawing no. ENF21-0034(2) and the references to it, within the enforcement notice, and substitute it with the plan annexed to this decision and the references to it with the wording '*Amended Plan – October 2022*'.
 - deleting the wording '*and stiles*' within section 3 vi) and requirement f) and the reference to more than one plan within section 3 vi). The wording at the end of section 3 vi) will be substituted with '*the plan annexed to this decision, Amended Plan – October 2022*'.

Subject to the corrections, the ground (a) appeal is allowed, the enforcement notice is quashed and planning permission is granted on the application deemed to have been made under section 177(5) of the 1990 Act for the development already carried out, namely the:

- (i) carrying out of operational development, consisting of the construction of a driveway (including the formation of adjacent soil bunds), the approximate location of which is shown cross-hatched black and denoted as 'Driveway A' on the plan attached to the enforcement notice (drawing no. ENF21-0034(1)); and
- (ii) carrying out of operational development, consisting of the construction of a driveway, the approximate location of which is shown hatched black and denoted as 'Driveway B' on the plan annexed to this decision, Amended Plan – October 2022; and
- (iii) carrying out of operational development, consisting of the construction of a car park (including the formation of adjacent soil bunds), the approximate location of which is shown hatched black and denoted as 'Car Park' on the plan annexed to this decision, Amended Plan – October 2022; and
- (iv) carrying out of operational development, consisting of the laying of hardsurfacing, the approximate location of which is shown shaded grey and denoted as 'Hardsurfacing' on the plan annexed to this decision, Amended Plan – October 2022; and
- (v) carrying out of operational development, consisting of the construction of a building, the approximate location of which is shown cross-hatched black and denoted as 'Building' on the plan annexed to this decision, Amended Plan – October 2022; and
- (vi) carrying out of operational development, consisting of the erection of fences, including gateways the approximate location of which are shown as a solid green line on the plan annexed to this decision, Amended Plan – October 2022

at Thornbridge Hall, Baslow Road, Ashford-in-the-Water, DE45 1NZ and subject to the conditions in the schedule annexed to this decision.

D Boffin

INSPECTOR

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Ms Kate Olley Counsel, instructed by Peak District National Park Authority (PDNPA)

She called:

Ms Deborah Evans DE Landscape & Heritage Ltd

Ms Anna Badcock Cultural Heritage Manager, PDNPA

Dr Felicity Stout Tree Conservation Officer, PDNPA

Mr Andrew Cook Team Manager – Monitoring and Enforcement, PDNPA

FOR THE APPELLANT:

Mr Jonathon Easton King's Counsel, instructed by Emery Planning

He called:

Mr William Anderson Anderson Tree Care

Mr Tony Hanna Archaeological Research Services Ltd

Mr Nicholas Folland Barnes Walker Ltd

Ms Kathryn Sather Kathryn Sather & Associates

Ms Caroline Payne Emery Planning

INTERESTED PARTIES:

Mr Stephan Green Derbyshire Historic Gardens Trust & The Gardens Trust

Ms Joanna Bunting Assistant Solicitor (Planning and Minerals), PDNPA

Ms Ann Haden PNFS Footpath Inspector for Great Longstone, Derbyshire

Miss Rebecca Walker

Ms Isla Coffey

Ms Kath Bishell

Mr Andrew Twelves

Mr Jonathon Rowlands

Mr Jeremy Lowe

Mrs Deryl Sharp

Dr Jonathon Mayo
 Ms Amanda Wragg
 Mr Roger Longden
 Miss Olivia Cridland

DOCUMENTS – Submitted during the Inquiry

INQ D1 – Cultural Heritage Speaking Note
INQ D2 – Emery Planning Speaking Note
INQ D3 – Ecological Note
INQ D4 – Letter – John Hart
INQ D5 – Cultural Heritage Note – Attenuation Pond and additional documents
INQ D6 – Drainage Briefing Note – Archaeology
INQ D7 – Trees – Drainage Note
INQ D8 – Highways Briefing Note
INQ D9 – 1968 Photograph
INQ D10 – Statement by Stephan Green
INQ D11 – Further Highways Response – Derbyshire County Council

CORE DOCUMENTS

CD1	Proposal Documents	
	1.01	Extended Phase I Habitat Survey by Rachel Hacking Ecology (July 2021).
	1.02	Archaeological Desk Based Assessment by Archaeological Research Services (July 2021)
	1.03	Written Scheme of Investigation by Archaeological Research Services (January 2022)
	1.04	Transport Statement by Focus TP (November 2021)
	1.05	Tree Survey prepared by Anderson Tree Care (May 2021) with appendices
	1.06	Tree Survey prepared by Anderson Tree Care (July 2021)
	1.07	Proposed café plans and elevations (BA/21/005 03 A)
	1.08	Gate 3 details (BA/21/005 04)
	1.09	Site layout (Ba/21/005 02 A)

	1.10	Site location and car park layout (BA/21/005 01 C)
	1.11	Succession Parkland Tree Planting (M3406-PA-06-V4)
	1.12	Driveway Bund Remediation (M3406-PA-05-V4)
	1.13	Peripheral Parkland Walk (M3406-PA-04-V4)
	1.14	Car Park Layout (M3406-PA-02-V4)
	1.15	Car Park Bund Remediation (M3406-PA-01-V4)
	1.16	Attenuation Pond Layout (M3406-PA-07-V1)
	1.17	Parkland Tree Root Protection Areas (M3406-PA-08-V1)
CD2	Enforcement Notice	
	2.01	Enforcement Notice ENF:21/0034 dated 15 June 2021
	2.02	Enforcement Notice Plan ENF:21-0034(01)
	2.03	Enforcement Notice Plan END:21-0034(02)
	2.04	Deemed Planning Application Fee Payment Form 21/0034
	2.05	Delegated Enforcement Report 21/0034
CD3	Development Plan and Policy Documents	
	3.01	Core Strategy (October 2011)
	3.02	Development Management Policies (24 May 2019)
	3.03	Landscape Strategy and Action Plan (2009)
	3.04	Peak District National Park Design Guide (2007)
	3.05	Peak District Biodiversity Action Plan (2011) - ELECTRONIC VERSION ONLY:
		https://www.peakdistrict.gov.uk/looking-after/biodiversity/biodiversity-action-plan
	3.06	Local Enforcement Plan (2014)
	3.07	Thornbridge Conservation Area Designation
	3.08	Thornbridge Conservation Area Appraisal (2005)
	3.09	Transport Design Guide (October 2019)
CD4	Other Documents	
	4.01	Thornbridge Education Centre Archaeological Field Survey – Peak District National Park Authority Cultural Heritage Team (2004)
	4.02	Historic England consultation response (17 December 2021)

	4.03	The Gardens Trust consultation response (23 December 2021)
	4.04	Conservation Area Appraisal Designation and Management - Historic England Advice Note 1 (2nd Edition, Feb 2019)
	4.05	Statements of Heritage Significance: Analysing Significance in Heritage Assets - Historic England Advice Note 12 (Oct 2019)
	4.06	The Setting of Heritage Assets - Historic Environment Good Practice Advice in Planning Note 3 (2nd Edition, Dec 2017)
	4.07	IEMA Principles of cultural heritage impact in the UK (July 2021)
	4.08	Rural Landscapes - Historic England Register of Parks and Gardens Selection Guide
	4.09	Thornbridge Hall Park, Ashford-in-the-Water and Great Longstone Parishes, Derbyshire - Archaeological Survey by Bill Bevan (1995)
	4.10	Historic England - Conservation Principles, Policies and Guidance (April 2008)
	4.11	Listed Buildings & Curtilage - Historic England Advice Note 10 (February 2018)
	4.12	Council of Europe Landscape Convention (20 October 2000)
	4.13	BS5837-2012 Trees in Relation to Design, Demolition and Construction - Recommendations
	4.14	GPDO 2015 Class A of Part 2 of Schedule 2
	4.15	Guidelines to Landscape and Visual Impact Assessment 3rd Edition (GLVIA3) - HARD COPY ONLY (TO BE PROVIDED AT EVENT)
	4.16	Historic England - Garden and Park Structures Listing Selection Guide (2017 Edition)
	4.17	Principles of Selection for Listed Buildings (DDCMS) (November 2018)
	4.18	Hampshire CC v SSEFRA & Blackbushe Airport Ltd [2020] EWHC 959 (Admin)
	4.19	Hampshire CC v SSEFRA & Blackbushe Airport Ltd [2021] EWCA 398, [2020]
	4.20	Hiley v The Secretary of State for Levelling Up, Housing And Communities & Anor [2022] EWHC 1289 (Admin) (27 May 2022).
CD5	Inquiry Documents	
	5.01	Appellant's Grounds of Appeal
	5.02	PDNPA Statement of Case (December 2021)
	5.02a	Doc 6 PDNPA-Transport -Design-Guide SPD
	5.02b	Doc 8 PDNPA - Local Enforcement Plan - October 2018
	5.02c	Doc 9 Thornbridge Hall Park Archaeological Survey 1995

	5.02d	Doc 10 Thornbridge Education Centre Archaeological Field Survey 2004
	5.02e	Doc 11 Extract from 1879 OS map copyright Nat Lib Scotland
	5.02f	Doc 4 Landscape Strategy and action plan
	5.03	Statement of Common Ground between Appellant and LPA
	5.04	PDNPA Amended Statement of Case (March 2022)
	5.05	Summary of Meeting between T Hanna and Anna Badcock (03-10-22)
	5.06	Final Draft Unilateral Undertaking 14-10-11 - 694842-55106611-8 v.01
CD6	Site Listings	
	6.01	Thornbridge Hall (Park and Garden) - entry 1001275
	6.02	Boundary Wall to Thornbridge Hall - entry 1109902
	6.03	Gates and attached walls at entrance to Thornbridge Hall - entry 1158709
	6.04	Two Garden Temples in Gardens at Thornbridge Hall - entry 1334969
	6.05	West Lodge and attached walls at Thornbridge Hall - entry 1109258
	6.06	North Lodge and attached gate and gate piers at Thornbridge Hall - entry 1334968
	6.07	Gardens at Thornbridge Hall - entry 1109259
	6.08	Thornbridge Hall (Listed Building) - entry 1158698
	6.09	Retaining Wall and Grottos in gardens at Thornbridge Hall - entry 1158314
	6.10	Four Hermes in Gardens at Thornbridge Hall - entry 1109903
	6.11	Fountain and Urns in Gardens at Thornbridge Hall - entry 1334970
	6.12	East Lodge, Thornbridge Hall - entry 1335287
	6.13	Gates at Eastern entrance to Thornbridge Hall - entry 1109286
	6.14	Gatepiers, gates and railings to Thornbridge Hall - entry 1087828
	6.15	Heritage Environment Record (DCC) Registered Park and Garden, Monument and Listing Plans and Reports
	6.15a	RPG Conservation Areas Listed Buildings CDR11666
	6.15b	Listed Buildings CDR11666
	6.15c	Listed Buildings Zoom CDR11666
	6.15d	Monuments CDR11666
	6.15e	15e Monuments Full CDR11666
	6.15f	Monuments Zoom CDR11666

CD7	Opening and Closing Statements	
	7.01	Appellant opening statement
	7.02	PDNPA opening statement
	7.03	Appellant closing statement
	7.04	PDNPA closing statement
CD8	Additional documents	
	8.01	Phase 1 and 2 Geophysical Survey by Archaeological Research Services (May 2022)
	8.02	Email to PDNPA dated 18.08.2022 - Archaeology
	8.03	Emails to PDNPA dated 12.09.2022 - 18.08.2022 - Archaeology
	8.04	Surface Water plan - Overall site (c14090-30)
	8.05	Surface Water plan - Sheet 1 of 6 (c14090-31)
	8.06	Surface Water plan - Sheet 2 of 6 (c14090-32)
	8.07	Surface Water plan - Sheet 3 of 6 (c14090-33)
	8.08	Surface Water plan - Sheet 4 of 6 (c14090-34)
	8.09	Surface Water plan - Sheet 5 of 6 (c14090-35)
	8.10	Surface Water plan - Sheet 6 of 6 (c14090-36)
	8.11	Fluvial Flood Zone Extents Layout (c14090-37)
	8.12	Historic drainage mapping
	8.13	Drainage notes to accompany historic drainage mapping
	8.14	Flood Risk Statement and Surface Water Management Report prepared by Northern Structural Services (May 2022)
	8.15	Email from DCC dated 14.07.2022 - Drainage
	8.16	Email 1 to PDNPA dated 23.08.2022 - Drainage
	8.17	Email 2 to PDNPA dated 23.08.2022 - Drainage
	8.18	Updated Visitor Numbers (September 2022)
	8.19	DCC Response to Flood Mitigation Scheme submitted 24-08-2022
	8.20	Photographs from PDNPA Site Visit 26-07-2022
	8.21	Gardeners Chronicle Article



Amended Plan – October 2022

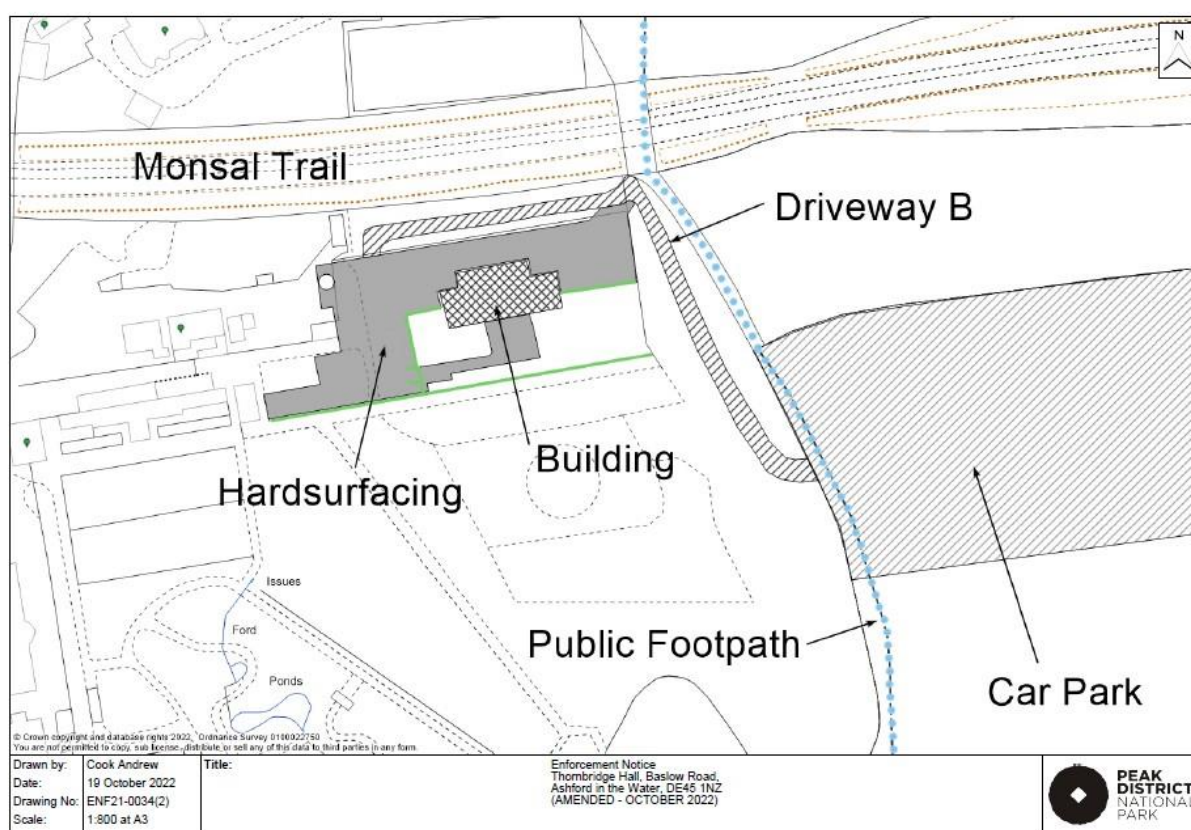
This is the plan referred to in my decision dated: 23 March 2023

by **D Boffin BSc (Hons) DipTP MRTPI Dip Bldg Cons (RICS) IHBC**

Land at: Thornbridge Hall, Baslow Road, Ashford-in-the-Water, DE45 1NZ

Reference: APP/M9496/C/21/3279072

Scale: Not to Scale



SCHEDULE OF CONDITIONS

- 1) The building operations hereby permitted shall be demolished to ground level, the engineering operations hereby permitted shall be removed and all materials resulting from the demolition and removal shall be removed within 6 months of the date of failure to meet any one of the requirements set out in (i) to (iv) below:
 - (i) Within 3 months of the date of this decision a landscaping scheme, for the bunds adjacent to the car park and driveway A and succession tree planting within the parkland, shall have been submitted for written approval to the local planning authority. The landscaping scheme shall include details of reprofiling the bunds adjacent to the carpark and driveway A and the locations of bird and bat boxes.
 - (ii) If within 11 months of the date of this permission the local planning authority refuse to approve the scheme or fail to give a decision within the prescribed period, an appeal shall have been made to, and accepted as validly made by, the Secretary of State;
 - (iii) If an appeal is made in pursuance of ii) above, that appeal shall have been finally determined and the submitted scheme shall have been approved by the Secretary of State;
 - (iv) The approved scheme shall have been carried out and completed in the first planting and seeding seasons following such written approval;

Any trees or plants which within a period of 5 years die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.

Reason: To safeguard and enhance the character and amenity of the area, to provide ecological, environmental and bio-diversity benefits and to enhance its setting within the immediate locality.

- 2) The building operations hereby permitted shall be demolished to ground level, the engineering operations hereby permitted shall be removed and all materials resulting from the demolition and removal shall be removed within 6 months of the date of failure to meet any one of the requirements set out in (i) to (iii) below:
 - (i) Within 3 months of the date of this permission a landscape management plan shall have been submitted for written approval to the local planning authority for all landscaping approved through condition 1 above;
 - (ii) If within 11 months of the date of this permission the local planning authority refuse to approve the landscape management plan or fail to give a decision within the prescribed period, an appeal shall have been made to, and accepted as validly made by, the Secretary of State;
 - (iii) If an appeal is made in pursuance of ii) above, that appeal shall have been finally determined and the submitted scheme shall have been approved by the Secretary of State;

Once approved the landscape management plan shall be carried out in accordance with such approval.

In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.

Reason: To safeguard and enhance the character and amenity of the area, to provide ecological, environmental and bio-diversity benefits and to enhance its setting within the immediate locality.

- 3) The building operations hereby permitted shall be demolished to ground level, the engineering operations hereby permitted shall be removed and all materials resulting from the demolition and removal shall be removed within 6 months of the date of failure to meet any one of the requirements set out in (i) to (iii) below:
- (i) Within 3 months of the date of this decision a scheme for the protection of the retained trees during implementation of the landscaping scheme approved through condition 1 of this decision and any groundworks required to be carried out to comply with the remaining conditions of this permission, in accordance with BS 5837:2012, including a tree protection plan(s) (TPP) and an arboricultural method statement (AMS) shall have been submitted for written approval to the local planning authority;
 - (ii) If within 11 months of the date of this permission the local planning authority refuse to approve the scheme or fail to give a decision within the prescribed period, an appeal shall have been made to, and accepted as validly made by, the Secretary of State;
 - (iii) If an appeal is made in pursuance of ii) above, that appeal shall have been finally determined and the submitted scheme shall have been approved by the Secretary of State.

Once approved the scheme for the protection of the retained trees shall be carried out in accordance with such written approval.

In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.

Reason: To safeguard and enhance the character and amenity of the area, to provide ecological, environmental and bio-diversity benefits and to enhance its setting within the immediate locality.

- 4) The building operations hereby permitted shall be demolished to ground level, the engineering operations hereby permitted shall be removed and all materials resulting from the demolition and removal shall be removed within 6 months of the date of failure to meet any one of the requirements set out in (i) to (iii) below:
- (i) Within 3 months of the date of this decision a tree survey to identify Root Protection Areas (RPAS) of all trees impacted by the development shall have been submitted for written approval to the local planning authority;
 - (ii) If within 11 months of the date of this permission the local planning authority refuse to approve the survey or fail to give a decision within the prescribed period, an appeal shall have been made to, and accepted as validly made by, the Secretary of State;
 - (iii) If an appeal is made in pursuance of ii) above, that appeal shall have been finally determined and the submitted scheme shall have been approved by the Secretary of State;

In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.

Reason: To safeguard and enhance the character and amenity of the area, to provide ecological, environmental and bio-diversity benefits.

- 5) The building operations hereby permitted shall be demolished to ground level, the engineering operations hereby permitted shall be removed and all materials

resulting from the demolition and removal shall be removed within 6 months of the date of failure to meet any one of the requirements set out in (i) to (iv) below:

- (i) Within 3 months of the date of the written approval of the tree survey required by condition 4 above a soil amelioration plan for the RPAs of the trees identified within that survey shall have been submitted for written approval to the local planning authority;
- (ii) If within 11 months of the date of this decision the local planning authority refuse to approve the plan or fail to give a decision within the prescribed period, an appeal shall have been made to, and accepted as validly made by, the Secretary of State;
- (iii) If an appeal is made in pursuance of ii) above, that appeal shall have been finally determined and the submitted scheme shall have been approved by the Secretary of State;
- (iv) The approved soil amelioration plan shall have been carried out and completed within 3 months of such written approval;

In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.

Reason: To safeguard and enhance the character and amenity of the area, to provide ecological, environmental and bio-diversity benefits.

- 6) The building operations hereby permitted shall be demolished to ground level, the engineering operations hereby permitted shall be removed and all materials resulting from the demolition and removal shall be removed within 6 months of the date of failure to meet any one of the requirements set out in (i) to (iv) below:
 - (i) Within 3 months of the date of this permission a Compensation Tree Planting Scheme, based on a valuation of all trees, identified within the tree survey in condition 4 above, using a recognised amenity tree valuation system, shall have been submitted for written approval to the local planning authority. The scheme will include planting and maintenance specifications, including cross-section drawings, use of protective measures and confirmation of location, species and sizes, nursery stock type, supplier and defect period;
 - (ii) If within 11 months of the date of this permission the local planning authority refuse to approve the scheme or fail to give a decision within the prescribed period, an appeal shall have been made to, and accepted as validly made by, the Secretary of State;
 - (iii) If an appeal is made in pursuance of ii) above, that appeal shall have been finally determined and the submitted scheme shall have been approved by the Secretary of State;
 - (iv) The approved scheme shall have been carried out and completed in the first planting and seeding seasons following such written approval.

Any trees or plants which within a period of 5 years die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.

Reason: To safeguard and enhance the character and amenity of the area, to provide ecological, environmental and bio-diversity benefits and to enhance its setting within the immediate locality.

- 7) The building operations hereby permitted shall be demolished to ground level, the engineering operations hereby permitted shall be removed and all materials

resulting from the demolition and removal shall be removed within 6 months of the date of failure to meet any one of the requirements set out in (i) to (iv) below:

- (i) Within 3 months of the date of this permission a scheme or specification for the removal/replacement of the painted lines on driveways A and B, the car park and the hardstanding adjacent to the café building shall have been submitted for written approval to the local planning authority;
- (ii) If within 11 months of the date of this permission the local planning authority refuse to approve the scheme/specification or fail to give a decision within the prescribed period, an appeal shall have been made to, and accepted as validly made by, the Secretary of State;
- (iii) If an appeal is made in pursuance of (ii) above, that appeal shall have been finally determined and the submitted scheme shall have been approved by the Secretary of State;
- (iv) The approved scheme/specification shall have been carried out and completed within 3 months of such written approval and maintained as such in perpetuity.

In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.

Reason: To mitigate the harmful impact of the development on the designated heritage assets, to enhance the character and amenity of the area and in the interests of highway safety and inconvenience.

- 8) Within 6 months of the date of this decision the main vehicular access and visibility splays shall be laid out strictly in accordance with drawing numbers J000269-GA001, J000269-GA002 and J000269-GA003 and maintained as such in perpetuity.

Reason: In the interests of highway safety and convenience.

- 9) The building operations hereby permitted shall be demolished to ground level, the engineering operations hereby permitted shall be removed and all materials resulting from the demolition and removal shall be removed within 6 months of the date of failure to meet any one of the requirements set out in (i) to (iii) below:
- (i) Within 3 months of the date of this permission a site-specific car parking management (CPM) and event management plan (EMP) shall have been submitted for written approval to the local planning authority. The CPM and EMP should include information about car parking management during peak visitors' times and events taking place at the site, the necessary measures to avoid parking on surrounding roads to avoid indiscriminate parking issues at those times and events and an implementation timetable;
 - (ii) If within 11 months of the date of this permission the local planning authority refuse to approve the CPM and EMP or fail to give a decision within the prescribed period, an appeal shall have been made to, and accepted as validly made by, the Secretary of State;
 - (iii) If an appeal is made in pursuance of (ii) above, that appeal shall have been finally determined and the submitted scheme shall have been approved by the Secretary of State.

Once approved the CPM and EMP shall be implemented in accordance with such written approval.

In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.

Reason: In the interests of highway safety and convenience.

- 10) The building operations hereby permitted shall be demolished to ground level, the engineering operations hereby permitted shall be removed and all materials resulting from the demolition and removal shall be removed within 6 months of the date of failure to meet any one of the requirements set out in (i) to (iv) below:
- (i) Within 3 months of the date of this permission a surface water drainage scheme for the car park, driveways A and B and the hardstanding adjacent to the café building including a timetable for its implementation and a management and maintenance plan for the lifetime of the development shall have been submitted for written approval to the local planning authority.
 - (ii) If within 11 months of the date of this permission the local planning authority refuse to approve the scheme or fail to give a decision within the prescribed period, an appeal shall have been made to, and accepted as validly made by, the Secretary of State;
 - (iii) If an appeal is made in pursuance of ii) above, that appeal shall have been finally determined and the submitted scheme shall have been approved by the Secretary of State;
 - (iv) The approved scheme shall have been carried out and completed within 3 months of such approval;

Upon implementation of the approved scheme specified in this condition, that scheme shall thereafter be maintained.

In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.

Reason: To ensure that the development does not increase flood risk and that the principles of sustainable drainage are incorporated into the development.

- 11) The building operations hereby permitted shall be demolished to ground level, the engineering operations hereby permitted shall be removed and all materials resulting from the demolition and removal shall be removed within 6 months of the date of failure to meet any one of the requirements set out in (i) to (iii) below:
- (i) No groundworks required to be carried out to comply with the conditions of this permission shall take place until a Written Scheme of Investigation (WSI) for archaeological evaluation and mitigation has been submitted to and approved by the local planning authority in writing.
 - (ii) If within 11 months of the date of this permission the local planning authority refuse to approve the WSI or fail to give a decision within the prescribed period, an appeal shall have been made to, and accepted as validly made by, the Secretary of State;
 - (iii) If an appeal is made in pursuance of ii) above, that appeal shall have been finally determined and the submitted WSI shall have been approved by the Secretary of State;

None of the groundworks required to be carried out to comply with the conditions of this permission shall take place other than in accordance with the approved archaeological WSI.

In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.

Reason: To comply with Paragraph 205 of the Framework, which requires the developer to record and advance understanding of the significance of any heritage assets to be lost (wholly or in part) in a manner proportionate to their importance and the impact, and to make this information (and any archive generated) publicly accessible.

- 12) The building operations hereby permitted shall be demolished to ground level, the engineering operations hereby permitted shall be removed and all materials resulting from the demolition and removal shall be removed within 6 months of the date of failure to meet any one of the requirements set out in (i) to (iv) below:
- (i) Within 12 months of the date of this decision a Conservation Management Plan (CMP) for the whole site shall have been submitted for the written approval of the local planning authority.
 - (ii) If within 11 months of the date of the submission of the CMP the local planning authority refuse to approve the CMP or fail to give a decision within the prescribed period, an appeal shall have been made to, and accepted as validly made by, the Secretary of State.
 - (iii) If an appeal is made in pursuance of ii) above, that appeal shall have been finally determined and the submitted scheme shall have been approved by the Secretary of State.
 - (iv) The recommendations of the CMP shall be carried out and completed in accordance with the approved timescales for the works.

In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.

Reason: To ensure the ongoing conservation and enhancement of the heritage assets.

- 13) The building operations hereby permitted shall be demolished to ground level, the engineering operations hereby permitted shall be removed and all materials resulting from the demolition and removal shall be removed within 6 months of the date of failure to meet any one of the requirements set out in (i) to (iv) below:
- (i) Within 3 months of the date of this permission a scheme or specification for the alteration/replacement of the external windows and doors to the café building shall have been submitted for written approval to the local planning authority;
 - (ii) If within 11 months of the date of this permission the local planning authority refuse to approve the scheme/specification or fail to give a decision within the prescribed period, an appeal shall have been made to, and accepted as validly made by, the Secretary of State;
 - (iii) If an appeal is made in pursuance of ii) above, that appeal shall have been finally determined and the submitted scheme shall have been approved by the Secretary of State;
 - (iv) The approved scheme/specification shall have been carried out and completed within 3 months of such written approval and maintained as such in perpetuity.

In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.

Reason: To mitigate the harmful impact of the development on the designated heritage assets, to enhance the character and amenity of the area.