

A47 DUALLING – NORTH TUDDENHAM TO EASTON

Scheme no. TR010038

RESPONSE TO APPLICANT'S SUBMISSIONS ON HERITAGE DESIGNATION AT ISH2

On behalf of A.C. MEYNELL of the [REDACTED]

IP reference 2002/8353



ACM 14

13 December 2021

Infrastructure Planning – Planning Act 2008

The Infrastructure Planning
(Examination Procedure) Rules 2010
Regulation 10

The A47 North Tuddenham to Easton
Development Consent Order 202[x]

Response to Applicant's Heritage designation submissions at
ISH2

On behalf of A.C. MEYNELL of the [REDACTED]

Application reference: TR 010038

Interested Party reference: 2002/8353

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Date: 13 December 2021

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GHJ 13 Dec 2021

Appendix A

A47 North Tuddenham to Easton Development Consent Order Application.

Heritage Specific Issues in relation to the [REDACTED].

Memorandum of Mr Steven Thomas BSc (Hons) PGDipBldgCons (RICS) CEnv MCIEEM

1. Introduction

1.1. The potential impacts and future effects of the A47 dual carriageway with the junction at Wood Lane have been assessed as having an adverse effect on [REDACTED] and by default the [REDACTED] in the ES. There are two distinct but related issues at the [REDACTED] Estate which should be highlighted further. These cover the existing Environmental Statement, including its revision, together with the heritage status of the Estate and its cultural heritage value.

2. The Environmental Statement

a) Overview

2.1. The main issues involving the Environmental Statement, specifically in relation to the cultural heritage element (Chapter 6) (**March 2021 [APP-045] revised October 2021 at Deadline 3 [REP3-013¹]**), concern its thoroughness, which has implications for its robustness and whether it can be fully relied upon by the Secretary of State in decision making.

2.2. These issues can be summarised as follows:

- Baseline assessment has omitted key maps from any map regression exercise which has clearly led to a reduced understanding of the heritage assets in general and the [REDACTED] Estate as an entity in its own right;
- Not enough understanding of [REDACTED] and the surrounding estate land has been demonstrated in the ES which appears to be the result of a lack of historic research;

¹ The revised version dated Oct 2021 of the original ES Ch 6 [APP-045] is at REP3-014 in clean form and REP3-013 track-changed. The revised track-changed version REP3-013 will be cited as the reference to the document in the remainder of this paper.

- The cultural heritage section deals with setting, which is a key element in any such assessment, but it is clear that no site visit specifically to Berry Hall was carried out² and that any assessment of Berry Hall, its curtilage buildings and the wider setting or estate was carried out from publicly accessible land only. *“The surroundings in which a heritage asset is experienced. Its extent is not fixed and may change as the asset and its surroundings evolve. Elements of a setting may make a positive or negative contribution to the significance of an asset, may affect the ability to appreciate that significance or may be neutral.”* (p71 National Planning Policy Framework, Ministry of Housing, Communities and Local Government 2021)³ There is a clear need to experience the heritage asset (which in this case is Berry Hall, its setting and the whole, intact, glebe estate) in order to understand the setting and its importance; and
- There has been, and continues to be, a failure to appreciate the qualities of Berry Hall, its surrounding landscape and the Estate as an entity, which is in part attributable to a lack of historic research and baseline understanding of cultural heritage values.

b) Lack of historic map regression work

2.3. To add detail to the bullet points at para 2.2 above, the lack of historic map regression work is admitted by the Applicant’s consultant in the ISH2 notes [REP3-013, Annex C] in paragraph 20 where it states *‘The 1826 Bryant map and the 1838 East Tuddenham tithe map and apportionment were not available for the production of the Environmental Statement’*. Given that the Bryant Map is available as a published book and the Tithe Maps can be consulted online this omission is glaring and contributes to the impression that a lack of understanding was gathered about the Estate. Similarly there are comments in the oral submissions on heritage matters at ISH2 that refer to the issues associated with county maps such as Bryant (REP3-013, Annex C, para 18). It is accepted that county maps are indicative but they are nevertheless useful. As such a cursory glance at Faden’s Map of Norfolk, published in 1797 (again available in published form and online) but surveyed earlier in the decade, shows Berry Hall labelled as a parsonage and within a small park. The annotation colouring on the Faden Map around the Parsonage (ie Berry Hall) matches that used elsewhere for Weston House park, Taverham Park, Honingham Park and others.

c) Lack of research

2.4. Related to bullet point one at para 2.2 above, the second bullet point at para 2.2 concerns a lack of research leading to an underdeveloped understanding of the heritage assets (designated and non-designated) in the ES, which by default follows through into uncertainty over the assessments of significance, impacts and effects. The ES, Chapter 6 [REP3-013] states that Berry Hall is an early

² The ES Ch 6 [REP3-013] states at para 6.5.4 that site inspections were undertaken in 2017 but it is assumed these were by others as the following comment states that notes were available but not the photographs. The same paragraph continues “A second site visit was undertaken in May 2020” but that “this was limited to public rights of way and limited safe paths.” The paragraph further states “Site meetings intended to discuss setting impacts with Historic England were cancelled ... but ... replaced by remote consultation which was adequate to inform the assessment”.

³ Note similar definitions are given in DMRB LA106 which defines cultural heritage as *‘Historic monuments, historic groups of buildings and/or historic sites.’* and setting as *‘The surroundings in which a cultural heritage resource is experienced.’*

19th century former vicarage with major alterations having taken place in 1949 (REP3-013, para 6.7.24). This text appears to come from the statutory Listed Description but even a brief assessment of the building itself or readily available published sources will inform anyone with heritage expertise that [REDACTED] has older origins. For example Pevsner and Wilson⁴ state that [REDACTED] was 'built as a Rectory in 1754' there is also Faden's map cited above referring to a Parsonage in 1797.

2.5. This lack of basic research to develop an understanding of the heritage assets at [REDACTED] is perhaps best illustrated by paragraph 6.7.26 of the ES Ch 6 [REP3-013] which states '*The setting of the asset would contribute to its significance by its association with the church served by the former vicar. Unfortunately, it is not clear from available sources, which church or churches were ministered by the vicarage.*' Setting aside the fact that parsons, rectors or vicars (not their house) are the ministers, a simple search for the Reverend Thomas du Quesne returns an immediate confirmation that he was the incumbent at East Tuddenham and Honingham and died at [REDACTED] in 1793⁵. Similarly the Rev. William Smith, who was at [REDACTED] in the mid 19th century when the Tithe Maps were produced, was the incumbent of East Tuddenham and Honingham⁶. This shows that it is possible to rapidly build up a picture of the cultural heritage interests and to establish how [REDACTED] as the residence ties in with the local parish churches. If the Expert was unable to elicit the two Rectors' names from the village churches, the normal first point of reference, a simple approach to Mr Meynell would have elicited this information and much more. The Applicant's officers had already visited him more than once before the Covid lockdown by the time the ES was being prepared in 2020 and archaeological surveys were being carried out on the Estate with his agreement by the ES Cultural Heritage team. The Applicant was in email correspondence with Savills, his agents and had their telephone number. Seeking information from the owner on a listed building to be affected by a scheme of this magnitude should be an established method of research to inform the ES.

d) Failure to appreciate the Estate's qualities as an entity in itself

2.6. The points made in the previous paragraphs link in to the fourth bullet point at para 2.2 above, regarding a failure to appreciate the qualities of [REDACTED], its surrounding landscape and the Estate's distinct elements, as well as an entity in and of itself.

2.7. Had a reasonable level of historic research and interpretation been carried out for the ES the consultant would have recognised that [REDACTED] is, at least on the western side of Berrys Lane, a small glebe estate which remains largely intact. This essentially underpins the Natural England assessments of [REDACTED] and the Government's designation of the estate as outstanding in a national context. While more research would have to be done to confirm this proposition, I believe that it is at least uncommon, if not rare, for a glebe estate that is known to have existed in the 18th century and the bounds of which can be well established in the 19th century to remain intact. Today, as a further point of interest, Mr Meynell is himself distantly related to Rev du Quesne through Rev du Quesne's mother Elizabeth (the daughter of Sir Roger Bradshaigh of Haigh Hall, Wigan) whose

⁴ Pevsner, N & Wilson, B (1999) *The Buildings of England : Norfolk 2 : North-West and South* p.325 Penguin Books

⁵ A search on google of "Revd Thomas du Quesne [REDACTED]" - finds "heinsthomasrogerduquesne 1750 JJHC" with reference to and a photograph of a portrait of Revd du Quesne by John Theodore Heins held by Norfolk Museums, having a caption stating his being the Vicar of Honingham & East Tuddenham.

⁶ A search on google of "Rev William Smith Honingham" (or... "East Tuddenham")

portrait he has hanging at Berry Hall and this has cultural heritage value which should have been picked up.

e) **Setting**

- 2.8. The third bullet point above covers the issues around setting in the ES Ch 6. Setting is a key issue and an important part of any assessment, especially for a major infrastructure project. Setting is defined as *"The surroundings in which a heritage asset is experienced. Its extent is not fixed and may change as the asset and its surroundings evolve. Elements of a setting may make a positive or negative contribution to the significance of an asset, may affect the ability to appreciate that significance or may be neutral."* (National Planning Policy Framework, Ministry of Housing, Communities and Local Government 2021, p71)⁷.
- 2.9. There are two main problems with the ES Ch 6 [REP3-013] in this respect. Firstly, as clearly defined in the NPPF above, setting relates to how the surroundings are experienced. It is understood from the methodology set out in the ES Ch 6, from interpretation of the oral submission (ISH2) [Written summary at **REP4-015, Annex C**], and from the owner of Berry Hall, that the Applicant's cultural heritage consultant has never visited the site (Berry Hall) other than from publicly accessible viewpoints⁸ and even the extent of that is not stated. If this is the case the site has not been experienced and at best has only been perceived from Berrys Lane or the public footpaths. This means that no close experience of the setting has been established by the Applicant's cultural heritage consultant. Secondly, if no site visits within the Estate have been undertaken to experience the setting and establish its extent and nature, how have sufficient views to, from and across the estate in relation to Berry Hall been seen or experienced in order to inform the ES and how has the appreciation and experience of being at Berry Hall been established with any certainty? In combination these are fundamental flaws in the assessment of setting, its value and significance as related to Berry Hall and the Estate. I understand from Mr Meynell that following ISH2 on 4-5 November 2021 the Applicant's cultural and historic expert had the opportunity to walk the Estate at the Accompanied Site Visit on 16 November 2021 but even then did not attend.
- 2.10. As a consequence of the above omissions the true cultural heritage value of Berry Hall and the Estate together, with a full and rounded appreciation of the setting of the Estate as well as of the Hall⁹, has not been established by the Applicant's expert advisers. This means that there is great uncertainty surrounding the process of assessment values, predicted impacts and predicted residual effects such that the ES in its current form undervalues the Berry Hall Estate.

⁷ Note similar definitions are given in DMRB LA106 which defines cultural heritage as 'Historic monuments, historic groups of buildings and/or historic sites.' and setting as 'The surroundings in which a cultural heritage resource is experienced.'

⁸ See Footnote 2 above.

⁹ In other words, the setting of the **Estate** (as the Heritage asset in question) within its surrounding landscape, as well as that of the **Hall** (as a listed building with its curtilage) within so much of the Estate as would be considered to be the setting of those buildings

3. The heritage status of the Estate and its cultural heritage value.

a) Overview

- 3.1. As mentioned at paragraph 3.12 below, the Applicant's expert alludes once in his submissions at ISH2 [REP4-015, Annex C] to the designation of the Berry Hall Estate by HMRC as a heritage asset. He does not specifically address the issue of the effect of the designation upon his consideration of it in the ES or whether the Estate merited assessment as an entity because of it. He spends some time however suggesting reasons why the Estate is not of historic significance, as if to justify why HMRC's designation was not a matter to be taken into account by him.
- 3.2. The Berry Hall Estate is designated heritage property with reference to Section 31 (1) (b) of the Inheritance Tax Act 1984¹⁰. The land is considered to be of outstanding scenic and historic interest in a national context by HM Government.¹¹ Because of the way that the Applicant and its experts have persisted in viewing the land only as a setting for the listed building of Berry Hall it is relevant to point out here that the IHTA designation was not, as it might have been, of a building under s31(1)(c) for its historic or architectural interest, and of land around it under s31(1)(d) deemed essential for the protection of the character of a building mentioned under sub-paragraph (c), but specifically here of the land itself comprising the estate, under section 31(1)(b), which included the buildings upon it. I have been involved in a number of designations under all three sub-paragraphs of s31(1) and it is most important to note here that it was the Estate as an entity that was designated with the buildings on it, not the buildings with the land as their setting around them. This is a critical distinction to make in understanding the proper basis of the land's assessment not just as it was for the IHTA designation, but for the assessment of the designated land now as the relevant asset for the purposes of the ES in the current DCO application.
- 3.3. In order to gain designated heritage property status, Mr Meynell, as owner of Berry Hall Estate had to demonstrate to HM Government that the Estate was worthy of consideration to be designated by the Government as being of outstanding interest in a national context on one or more of the permitted grounds within sub-paragraph (b) of s31(1). The designation could not happen until independent assessments had been commissioned by and provided to the Government without reference to Mr Meynell. The outcome was not a foregone conclusion and the decision was not ultimately based on the reports submitted by Mr Meynell, but on those submitted by Natural England in this case. At that point it was for HM Government to decide if the estate was a scenically important asset and entity, and it did.
- 3.4. In the case of the Berry Hall Estate two formal assessments by Natural England or its predecessor organization (one leading to the 2003 designation and another leading to its confirmation in 2011 after the death of Mr Meynell's father) were prepared for HM Government and both concluded that

¹⁰ See REP1-050 for HMRC's confirmation to Mr Meynell's lawyers on 25 Sept 2003 for the original designation

¹¹ Albeit that the listing at the Berry Hall Estate's entry on the Government's website visitukheritage.gov.uk mentions only "scenic" interest. For the confirmed status including "and historic" see REP1-051 - Natural England (2011) *Berry Hall Estate : Formal Assessment Report*, at paragraph 3.3.12 which confirms "The claim land is considered to be of outstanding scenic **and historic** interest" [emphasis added]. The area for the Estate edged on the plan at REP1-051 has since been reduced by the removal of a plot of land at the eastern extremity of the Estate, adjacent to Honingham village, which Mr Meynell has sold since 2011 for the construction of a sustainable dwelling. This area has been removed from the plan published now on the Government website visitukheritage.gov.uk under the listing for Berry Hall Estate.

the [REDACTED] was of outstanding scenic and historic interest as an entity. These assessments predate the A47 dual carriageway proposals currently under assessment and established the national interest of the property. Mr Meynell has been given a copy of the 2011 assessment [REP1-051] but not of the advice given by Natural England to the Inland Revenue (as it then was) in 2003.

3.5. It is worth referring here to the opening paragraph 1.1 of HM Revenue & Customs' Guidance Memorandum "*Capital Taxation and the national heritage*"¹²

"Preservation of the heritage – general policy

"Buildings of historic or architectural interest, land of historic, scenic or scientific interest, and objects and collections of national, historic or scientific interest form an integral and major part of the cultural life of the country.

"It has been the policy of successive Governments that this national heritage should be conserved and protected for the benefit of the public. They have taken the view that so far as possible property of this kind should remain in private hands and that its owners should be encouraged to retain and care for it and display it to the public.

"Where this is no longer possible owners should be encouraged to dispose of it to bodies in this country which have been set up specifically to hold such property in trust to the public".

This is the context in which Mr Meynell has been charged with the obligations he has undertaken to fulfil in terms of the preservation and maintenance of the Estate upon receiving its designation as heritage property by HM Revenue & Customs.

b) The outstanding attributes of the Estate as designated under s 31(1)(b) IHTA and the Applicant's failure to consider them

3.6. [REDACTED] (listed grade II) together with its associated traditional vernacular buildings, forms the heart of a small and relatively intact glebe estate where the surrounding small scale field pattern and woodlands form a key part of the setting. Although further research would be necessary, intact glebe estates are uncommon, if not nationally rare and this aspect of cultural heritage¹³ has been disregarded in the ES process.

3.7. The designated heritage area at [REDACTED] is an entity in its own right and has significance in a national context that is more than the sum of its parts. The cultural heritage assessment (ES Ch 6 [REP3-013] and for that matter, the landscape and visual assessment, of the ES (ES Ch 7 [**App-046**]) fail to appreciate this important aspect of cultural heritage value and has focused assessments

¹² Available at assets.publishing.service.gov.uk. Originally published in 1977 by HM Treasury, reissued by the Inland Revenue as IR67 in 1986 with a supplement in 1987, and most recently by HMRC in 2017.

¹³ Mr Meynell describes the Estate and its constituent parts in his Statement ACM 03 [REP1-045] and appends to my company's Heritage Management Plan dated 2002 in two volumes at Annexes ACM 03.3 and ACM 03.4 [REP1-048 and REP1-049 respectively].

on individual elements, curtilage structures and their setting without considering the wider estate as an entity¹⁴. Damaging or removing part of the heritage area jeopardises the integrity of the whole entity, putting the national heritage status at risk. Clearly the proposed development will have such an effect on the Berry Hall Estate and this has not been recognised through the ES process.

3.8. The Applicant's ISH2 Written Summary on Heritage [REP4-015, Annex C] states in the first sentence of paragraph 3:

'Whether a particular parcel of land is added to the [ES] assessment as a distinct entity is subject to the judgement of the assessor. As noted in the methodology section of the ES Heritage Chapter, this is guided by DMRB LA106. Of specific note, is that the "study area" is now defined as the footprint of the scheme plus any heritage resource that could be affected.'

The first part of this statement is disputed as there is a process in place to establish the scope of assessment so that it is not "solely down to the judgement of the assessor". The assessor should also follow any directions previously given in the Planning Inspectorate's Scoping Opinion supplied to it and the responses from relevant authorities consulted by the Inspectorate. To this end the Applicant is reminded that Natural England cited IHT heritage assets in their scoping response¹⁵ and provided reference links to enable the Applicant to investigate these assets further but this was not taken up in the ES process¹⁶. Given that the National Heritage Unit of Natural England and other consultants have previously been able to identify a heritage entity at Berry Hall it is more than reasonable to assume that the Applicant in the ES, particularly after receiving the specific direction from Natural England, should have recognised and appropriately assessed the designated heritage area, but it has not done so, and as such the ES is flawed.

3.9. This unsatisfactory approach to the estate as an entity and the failure to recognise the value of the designated heritage area is underlined by paragraph 14 of the Applicant's ISH2 Written Summary on Heritage [REP4-015, Annex C] where it states in the second sentence:

'The inclusion of the estate as a separate cultural heritage asset is not necessary, as the cultural heritage effect is captured in the description of the effect on Berry Hall and the historic landscape type. Since the effect on the estate is identical to the effect on the hall and has been described and assessed within this context, the assessment is adequate to inform the Secretary of State's decision.'

This is not the case, as the effect on Berry Hall and the landscape type is not the same as the effect on the estate as a whole, particularly as the proposed development would have an adverse

¹⁴ Applicant's RR responses [REP3-013] para 061.6, final para, "...the Applicant acknowledges ES Ch 7 does not specifically mention the Berry Hall Estate designation, it does consider Berry Hall in the visual assessment and the effects on the host landscape character that [it] forms part of ... (LCAs) A2 and D2"

¹⁵ **Scoping Opinion** – pre-application documents on the DCO project page (published 01/11/2019), at pdf page 165/184 in the final headed section of paragraph 3 entitled "Heritage Landscapes"

¹⁶ The Applicant in its response to RRs [REP1-013] at para RR 061.6 states that has reviewed the designation only "in response to the representation" [Mr Meynell's RR] [RR 061.6, final para]

effect on the historic glebe estate, on the designated heritage area and the estate in general. In an ES for a major infrastructure project the assessment should clearly set out the baseline, explain potential impacts and effects so that decision makers can decide from an informed position. If the ES omits evidence such as a glebe estate or a designated heritage area that does not present the full picture. I have mentioned at paragraph 3.2 above the reason for the need to assess the designated land of the Estate (with its buildings) as an entity for assessment in the current situation.

3.10. The second part of the quoted sentence at para 3.5 above from paragraph 3 of the ISH2 Written Summary on Heritage [REP4-015, Annex C]; "*the 'study area' is ... the footprint of the Scheme plus any heritage resource that could be affected*" should be interpreted as covering the designated heritage area of the Berry Hall Estate, so it is not at all clear why having taken this view the Estate was not included by the Applicant as an entity in its own right and as an intact historic glebe estate.

3.11. The Applicant's expert states in the highlighted section below of paragraph 19 of the ISH2 Written Summary on Heritage [REP4-015, Annex C]:

*"To summarise the oral submission made at the ISH2, in the opinion of the Applicant's heritage expert **the estate, in the context of being considered separately from relationships with the listed buildings and their curtilages**, is not of outstanding historic interest."* [emphasis added]

The meaning of the highlighted words on the face of it is unclear (it could mean either the land without the buildings, or else the land with the buildings but subsidiary to them). However, the final phrase: '*is not of outstanding historic interest*', requires considerable further explanation as the Inland Revenue (now HM Revenue & Customs) on behalf of the Government have already accepted that the Berry Hall Estate **is** of outstanding scenic and historic interest in a national context.

3.12. Paragraph 22 of the ISH2 Written Summary on Heritage [REP4-015, Annex C] then states:

"Please note this is a Cultural Heritage judgement, not a Landscape and Visual judgement. It also does not intend to falsify the Natural England assessment and recommendation to HMRC/treasury, as the specific contexts, requirements and purposes of the assessments are very different"

While I accept that the '*specific contexts, requirements and purposes of the assessments* [IHT & ES] *are very different*' this response fails to appreciate that the IHT assessments must demonstrate that an asset is of national interest to a standard that the Government will accept, and in the case of Berry Hall Estate, has already accepted. The onus of establishing a national

interest is not directly placed on an ES but that process should consider such land and property¹⁷. As noted earlier (see paragraphs 3.2 and 3.3) independent assessments of the [REDACTED] have concluded there is national interest in the site, which leaves the ES for the proposed development at odds with historic assessment prepared for the Government.

4. Conclusion

4.1. There are fundamental flaws in the ES in its consideration of the status of and the effects of the proposed Scheme on the [REDACTED] including:

- limited research to develop an understanding of the Estate;
- lack of appreciation or acknowledgement of the designated heritage status;
- lack of appreciation of the quality of the small and relatively intact glebe estate;
- lack of cultural heritage understanding and research that links [REDACTED] to the parish churches at East Tuddenham and Honingham;
- a failure to assess the landscape qualities of the Estate or the effect of the Wood Lane junction upon its landscape or upon it visually whether by day or night, or in winter and summer, or upon its commercial receptors;
- a failure to consider the combined historic and landscape qualities of the Estate and that in its case the sum of the whole is greater than the parts, by not comprehending or appreciating the Estate as an historic glebe estate of uncommon interest and by not recognising the heritage status and inherent value of the whole despite this being acknowledged by HM Treasury on behalf of the Government.

4.2. In addition there is a failure on the Applicant's part:

- As to the proposed permanent acquisition, in identifying reasonable alternatives for the precise location of the proposed Wood Lane Junction or its form that would have avoided harmful impacts on the [REDACTED], the designated heritage area, the glebe estate and the setting of the Hall before settling on its current proposal¹⁸; and
- As to the proposed temporary acquisition, (which arises from the permanent location proposed), in identifying other locations which would have less proportionate impact than the current proposals do on the mixed farming enterprise and farmed land which is special to and an integral part of the character of the Estate.

¹⁷ See RR-075, REP1-044 paras 43-59, REP2-026 reply to response RR-061.2, REP4-023 submissions at ISH2 (paras 46-62)

¹⁸ REP1-044 (Mr Meynell's Written Submissions) para 32 "there was no consultation on alternative grade-separated options for the Wood Lane junction"; and Mr Meynell's comment [REP3-043] on the Applicant's response to ExQ1 Q1.0.6 which requested details of alternatives considered.

Section 3.34 of the DMRB LA104 states in relation to design and mitigation that environmental assessment and design shall incorporate mitigation measures using a hierarchical system with stage 1 being avoidance and prevention.

- 4.3. The degree of intrusion proposed upon the Estate, as an Estate with nationally recognized qualities of the types confirmed by English Nature and acknowledged by the Government, is excessive. The Estate has responded to the applicant's suggestions that steps have been taken since the Statutory Consultation in 2020 to reduce the impacts on the Estate [REP4-025. Comment on para 1.01] and I note that the Applicant is proposing to suggest further (as yet not explained) mitigation steps.
- 4.4. A reasonable alternative scheme design with a number of different options for it, remains fully capable of avoiding adverse impact on the cultural heritage interests and preserving the integrity of the Berry Hall Estate¹⁹ yet these or any other options to adjust the location of the junction and its associated roads and structures to reduce the effects on the Estate, have not so far been adopted.

[End]

¹⁹ REP1-057 (Mr Meynell's Transport Consultant's Report); REP3-045 – Presentation of Options; REP4-043 – Mr Meynell's submissions at ISH2 (including Written Summary of submissions by Mr Joe Ellis, Highway Engineer.

Appendix B

Qualifications and experience of Steven Thomas BSc (Hons) PGDipBldgCons (RICS) CEnv
MCIEEM

Steven Thomas BSc (Hons) PGDipBldgCons(RICS) CEnv MCIEEM

Steven trained in landscape management at the University of Reading and received a first class degree in 1992. His work in the historic environment and on heritage estate's led Steven to complete a RICS post graduate diploma in Building Conservation with the College of Estate Management in 2005 where he received a distinction for his academic work that included a dissertation on the architect George Skipper.

He now works as a co-director of HLM whose work is entirely focussed on planning and management for the historic environment. Steven has worked on numerous historic estates and has prepared heritage and conservation management plans for Chatsworth, Longleat, Knole, Euston and Beaulieu amongst others. HLM are the authors of the World Heritage Site Plan for Blenheim Palace and have prepared park and garden conservation plans for this site. Steven is an expert in heritage estates and conditional exemption having work on numerous heritage management plans.

Date of birth 5 October 1968

Nationality British

Qualifications **BSc (Hons) Landscape Management**, First Class (University of Reading)
RICS Post Graduate Diploma in Building Conservation (Distinction) with the College of Estate Management

Professional Affiliations Member of the Institute of Ecology and Environmental Management
Chartered Environmentalist
Licentiate Member Landscape Institute

Employment summary

2002–to date Director, Historic Landscape Management Ltd
1993-2002 Partner, Historic Landscape Management
1991-1993 Freelance consultant landscape manager
1990-1991 Landscape Assistant with Rendel & Branch
Landscape Practice and Tom La Dell Associates

Memberships Society for the Protection of Ancient Buildings
Society of Architectural Historians
Norfolk Gardens Trust

Publications

A Kendle, E Percifull and S Thomas '**Multicultural influences in urban parks**' in *Landscape Design* 223, September 1993

Contribution of illustrations to: J Stoneham and P Thoday ***Landscape Design for Elderly and Disabled People*** 1994

E Percifull and S Thomas '**George Skipper's Sennowe Masterpiece**' in *Norfolk Gardens Trust Journal* Spring 2006

S Thomas **NHBG Visit to Bradfield Woods** in *Norfolk Historic Buildings Group Journal* No 13, Spring 2007

R Last (ed 2021) *Enticing Paths : A Treasury of Norfolk Gardens and Gardening*, Chapter 6 **George Skipper's Sennowe Masterpiece** p.104 - 121 Norfolk Gardens Trust



Berrington Hall Grounds (credit Thomas Dew)

The Heritage Designation You Missed

...

Paul Bennett

Senior Heritage Consultant at RSK Lead and
Published Oct 11 2021

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How a tax exemption could bring down the UK's planning system

By Paul Bennett (MCIFA)

There is a hidden heritage-shaped pothole in the road ahead for the construction industry. Are we going to hit it or drive on by? This article lays out the problem. Perhaps it will help us steer around it.

There is a tax designation shielding property owners from inheritance tax on assets recognised by the Treasury as of historic interest. This little-known instrument is potentially a material consideration in the planning process, and therefore requiring assessment of likely development impacts.

It essentially comes down to two questions on a very fine point of law:

1. Is a legal designation under tax law, which invokes “historic interest”, considered a “designation” as far as it is relevant to decision making?
2. If so, must this be considered in planning and DCO applications in order for the relevant authority’s decision to be considered lawful?

The Inheritance Tax Act 1984 – S.31(1)(b) states:

“The Treasury may designate under this section [...] (b) any land which in the opinion of the Treasury is of outstanding scenic or historic or scientific interest;”

Clauses (c) and (d) allow for buildings of interest and the land necessary for the protection of the character and amenities of those buildings, respectively. Clauses (a), (aa) and (e) are for objects.

So, did you (heritage consultants and planners) look for these when you last collated your heritage baseline for impact assessment? Would you even know where to look? If you did, it might not actually help.

Policy

Some of you may already have spat out some cornflakes and are typing responses along the lines of “that’s not listed in the NPPF, HEPS, PPW etc..”

I’ll stick to England, as that’s where my research has been focused. The tax status is not in the defined list in the NPPF[1] as a “**Designated Heritage Asset**”. The NPSNN[2] has the same definitions as NPPF. EIA regulations do not have any list or reference specific designations at all.

But, Historic England’s conservation principals[3] define a “**designation**” as:

“The recognition of particular heritage value(s) of a significant place by giving it formal status under law or policy intended to sustain those values.”

The tax status recognises heritage value and is a formal status granted under statute law. In addition, the landowner so exempted would be required to commit to providing public benefit and have a “heritage management plan” (regardless of the actual interest; scientific, scenic, historic or a combination) to ensure the commitments are kept.

Lastly, the status can be voluntarily disappplied by the beneficiary at any time and can be disappplied by the secretary of state if the beneficiary’s commitments are not kept.

So, it is not a “**designated heritage asset**” but possibly a “**heritage designation**”.

The Assets

Earlier I said it might not even do you any good to check the data. To avoid posting links, the list is available on the HMRC web portal by searching for: **HMRC “Land, buildings and their contents – search”** and will look like this:

Tax-exempt heritage assets

In this section:

- Land, buildings and their contents - search
- Works of art - search
- Collections of works of art and other objects - search

Land, buildings and their contents - search

You can search here to find details of land, buildings and their contents that are free from tax under the Conditional Exemption Incentive.

Find out more about the scheme, rights of access and missing or incorrect database information using the link below.

[Visiting or viewing tax-exempt heritage assets](#)

You can search by either:

- selecting a region on the map or list below to see what is available in a particular region
- selecting 'All of UK' from the list below to search an alphabetical list of everything in the UK

The boundaries shown on the map below are only representative and approximate. They're not intended to define any legal boundaries.

[Difficulties gaining access to tax-exempt heritage assets](#)

- [Scotland \(North\)](#)
- [Scotland \(South\)](#)
- [Northern Ireland](#)
- [North East](#)
- [North West](#)
- [Yorkshire & the Humber](#)
- [Wales](#)
- [West Midlands](#)
- [East Midlands](#)
- [Eastern Region](#)
- [London](#)
- [South East](#)
- [South West](#)
- [All of UK](#)

It covers the whole of the UK and is mostly text-based, with a reference map for each designation. Unfortunately, the information presented is not complete or consistent. It does not always tell you what interest the asset was designated for, and when it does, it is almost certainly not complete. There will be documents setting out the advice given to the Treasury by Historic England, Natural England and other specialist public bodies, as well as surveys and management plans. These will be of varying degrees of detail but will contain useful information. There will also be a letter from HMRC stating the exact clause(s) the designation was granted under, but not necessarily what kind of interest it has, or what they thought of the advice.

They are private. You can't have them.

These designations concern the private tax affairs of individual citizens ("the beneficiary").

They cannot be compelled to be placed in the public domain by any means outside of a court order. If they are given to you by a helpful beneficiary, you still need permission to use or reproduce the information.

To add a complication, invoking the “historic interest” part of section 31 does not necessarily mean a cultural heritage body will advise the treasury, or be involved in the heritage management plan.

What does It all mean?

Nobody really knows. Sorry.

Since there is no policy guidance on this, each case is considered individually and it very much hinges on the exact circumstances and what arguments are put forward to secure the designation from HMRC.

Would failure to note this status in a DBA, impact assessment or DCO submission be a failure to recognise a “**designation**” and thus render the subsequent Planning Authority or Secretary of State’s decision unlawful?

Worst case – It is a designation and it applies to all applications. Any decision to grant permission or consent where this status applies and it was not picked up during the planning process would be unlawful. How far back in time this would go is not easy to guess but it could be retroactive to 6 weeks (the limit for judicial review claims), but this can be extended by the court. If the potentially unlawful decision led to harm to a listed building or scheduled monument, that period could be unlimited as, the offences under these two acts do not have statutory time limitations.

Best Case – It is not a designation relevant to planning control and is simply a useful signpost to potential heritage assets and information which will otherwise be picked up by the assessment process even if this tax designation is not specifically referenced.

I would hope any judge looking at this would see the problem and ensure their judgement would not cause planning consents to be found unlawful.

Looking at it from the purely heritage impact side of things: if a development put this status at risk, it might affect the future management of that land for the public benefit and conservation of heritage value. Does that make it a heritage issue or a compensation issue?

Where to go from here?

I asked Historic England for a comment since that’s where my research was focused. You might want to do the same in Scotland, Wales and Northern Ireland to the respective national heritage bodies for developments on their patch.

I have had some informal discussions and responses from several overworked but kind

folks, but nothing formal, so I won't do them the disservice of quoting them.

In short, they had heard of the designation and some had direct experience of the exemption and the management plans it can be related to. It had, in their general recollection, not been tested during the planning process to the point where the problem had been bottomed out. They could not set aside the concern I laid out above. They acknowledged that the intersection of the tax legislation and guidance above was a potential problem and have referred the matter on to the HE legal team to get a definitive answer.

Hopefully, a guidance note will be issued soon.

But, for now. Maybe check the HMRC list. Just in case.

[1] National Planning Policy Framework, Annex 2

[2] National Policy Statement for National Networks (section 5.123)

[3] Conservation Principles, Policies and Guidance (2008, p71)

Acknowledgements.

I am grateful for the help of the following people in the researching and discussion of this issue (any errors remain mine alone):

Owen Raybould, Jennifer Richards, Kirsten Holland, Will Fletcher, David Brock, Claire Sutton, Andy Towle.

My apologies for the Clickbait title, but it made you look. Also while you are here, please take a moment to acknowledge the supreme effort it took to not have this entire article devolve into Star Trek jokes re: Section 31.

Paul Bennett is a Senior heritage Consultant with Headland Archaeology, an RSK company. He has over 15 years experience in the consultancy field and has worked on some of the UK's largest infrastructure projects

 19 8 Comments

 Like  Comment  Share

- Rob McNaught** 1mo ...
Great article Paul! We had first hand experience of this when we worked with a local authority on a small road scheme which went through the edge of a country estate subject to one of these agreements. It took a lot of consultation with Historic England and to persuade them that it wouldn't affect the heritage significance of the site and its tax offsetting qualities. These days a way can have a quiet life at the most usual case.
Like Reply | 1 like
- Paul Bennett** 1mo ...
Cheers Rob been a while!
We always check it now but it's a pain when people get house arms. A way is inevitable too ate 😊
Like Reply
- Clare Mitchell** 2mo ...
Fascinating article thanx for sharing
Like Reply
- Jenny Wetton** 2mo ...
Thanks for the heads up
Like Reply | 1 like
- Andrew Jones** 1mo ...
This is scary intended to protect owners of beautiful landscapes and listed buildings and I hope SSSIs

How is it that owners can demolish historic structures and be given retrospective planning permission to do so by LAs

I am thinking of an important heritage asset formerly property of the MCA at Famborough Head. This is currently being developed by a new owner who told the PCC and LA that he was building a family holiday home. It is now clear to many that he was being economical with the truth in this matter.

Is the UK planning process broken in the this new Covid Era?

Is there anything ordinary citizens can do to prevent further liberalisation?
Like Reply
- Ben Wallace** 2mo ...
Fascinating. Just like Andrew wonder though if the majority (if not nearly all) of the properties and land would already be covered by designated heritage assets or historic environment records which are already included in the planning process and make this a moot point especially if we have no data to work with from the Treasury. It would be interesting to see if this has ever come up anywhere else?
Like Reply | 1 like
- Paul Bennett** 2mo ...
I'd recommend a random check through the list. The answer got within an hour or so of browsing was 'Sort of' but not enough to not worry.
Like Reply | 1 like
- Andrew Croft** 2mo ...
Having worked on a few of these properties over the years I have found that the Treasury tends to rely on existing designations as an indication of historic interest and that these places are home to a plethora of heritage and other designations anyway.
Like Reply | 2 likes
- [See more comments](#)

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