

**GREAT MITTON HALL, CLITHEROE, LANCASHIRE**  
**APPEALS AGAINST THE REFUSAL OF RIBBLE VALLEY BOROUGH**  
**COUNCIL TO GRANT LISTED BUILDING CONSENT AND PLANNING**  
**PERMISSION FOR THE ERECTION OF A SINGLE STOREY EXTENSION AND**  
**OTHER ASSOCIATED WORKS**

**LPA REFS: 3/2018/0474 & 3/2018/0468**

**PINS Ref: 3214150**

**SUBMISSIONS ON BEHALF OF THE APPELLANTS**

**Introduction**

1. I am instructed by Mr. and Mrs. Kay ('the Appellants') to provide brief submissions on the law and the evidence in order to assist the inspector who is appointed to redetermine these appeals following the quashing of the previous inspector's decisions by the High Court earlier this year.

**Discussion**

2. The LPA refused LBC for the following reason:

*"The proposal will have a harmful impact on the special architectural and historic interest of the listed building [i.e. the Hall] because the extension, railings and door replacement will compound the existing incongruity and conspicuousness of the modern extension."*

3. The LPA's reason for refusing PP was somewhat broader, in that it also alleged harm to the setting of "adjoining listed buildings and the cultural heritage of the area":

*“The proposal will have a harmful impact upon the special architectural and historic interest of the listed building, the setting of adjoining listed buildings and the cultural heritage of the area immediately adjoining the Forest of Bowland Area of Outstanding Natural Beauty because the extension, railings and door replacement will compound the existing incongruity and conspicuousness of the modern extension. This is contrary to Ribble Valley Core Strategy Key Statements EN5 and EN2 and Policies DME4, DMG1 and DMG2.”*

4. Paragraph 196 of the NPPF provides:

*“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.”*

5. ‘Public benefits’ can be “anything that delivers economic, social or environmental objectives as described in the National Planning Policy Framework” and includes, in particular, any “heritage benefits”.<sup>1</sup>
6. In the High Court, Dove J accepted the Appellants’ submission that paragraph 196 requires, in effect, two separate judgments – firstly, as to the nature of extent of any less than substantial harm (ignoring any benefits, including heritage benefits), then whether any such harm is outweighed by the public benefits (including heritage benefits):

*“34... I have no doubt that the interpretation of paragraph 196 provided by Sir Duncan Ousley in Safe Rottingdean is correct. The clear focus of paragraphs 193-196, and the fulcrum or essential finding necessary to apply the policy contained in those paragraphs correctly, is an initial establishment of the extent*

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<sup>1</sup> Planning Practice Guidance, Historic Environment, Paragraph: 020 Reference ID: 18a-020-20190723.

*and nature of the harm to the significance of a designated heritage asset as a consequence of what is proposed. At the stage of establishing the nature and extent of the harm to significance any beneficial impact on the significance of the heritage asset is left out of account. It is only after that level of harm has been fixed that any beneficial effect upon the building which, in accordance with the PPG would properly be considered to be a public benefit, is to be taken into account in assessing whether or not the overall balance to be struck in applying the policy, including any other public benefits, enables the conclusion to be reached that the proposals do not conflict with the policy.”*

7. Consequently, the main issues in this case are (a) whether the proposal would cause harm to the significance of any designated heritage asset and (b), if so, whether that harm is outweighed by any public benefits.

#### *Harm*

8. The LPA contends that the proposal would harm the special interest of the Hall and the setting of “adjoining listed buildings” because the “extension, railings and door replacement will compound the existing incongruity and conspicuousness of the modern extension”.
9. Firstly, the suggestion that the replacement of the railings and the pointed arch doorway will make the modern extension *more* incongruous and conspicuous is bizarre and manifestly ill-founded. As the previous inspector noted, the current railings are “over-elaborate and replacing them with straight railings would, as is indicated in the Heritage Statement that accompanied the applications, simplify this feature of the immediate surroundings of the listed building” (DL11), while “the arched doorway... is incongruous and draws attention away from the gable of the listed building”. Thus, he agreed with Dr. Edis that “the replacement of the doorway with a matching window, in this regard, would be a positive alteration that would benefit the architectural and historic interest of the listed building” (DL9). The LPA has not explained how

it could possibly be concluded that replacing the doorway with a window to match those which currently exist would have the opposite effect.

10. Secondly, as Dr. Edis explains, the extension itself will have a minimal effect on the historic character of the Hall. In particular, it will not require the removal of (or otherwise affect) any historic part of the building, its roof has been designed as a monopitch in order to keep the appearance as subtle as possible and the windows will also match those which currently exist on the same elevation. Furthermore, the shallowness of the extension means that it will only project slightly forward of the existing elevation, and will still be set behind the buttresses on the gable wall of the Hall. Accordingly, it will not dominate or compete with the Hall in terms of either its scale or materials.<sup>2</sup>

11. Overall, therefore, it is clear that the effect of these changes will be to make the modern extension *less* incongruous and conspicuous, not more, which can only be positively beneficial, rather than harmful, to the special character of the Hall and the setting of the Church and the other listed buildings.

12. Although the LPA do not claim that the repainting of the gable wall will be harmful (they merely say it is not a 'public benefit'), the previous inspector nevertheless found it to be so on the basis that "white is the traditional colour for painted render" (DL11). However, as Dr. Edis explains in his latest statement, that is not correct: render has no single traditional colour. Furthermore, in his view, it is desirable for the Hall to be "tonally balanced" with the Church given that they form a highly visible close-knit group.<sup>3</sup> On any

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<sup>2</sup> 'Making changes to heritage assets' (Historic England, 2016): "It would not normally be good practice for new work to dominate the original asset or its setting in either scale, material or as a result of its siting" (paragraph 41).

<sup>3</sup> Heritage Statement (Heritage Collective, October 2020), paragraph 4.7.

view, however, it is difficult to see how this could be considered as positively harmful to the significance of the Hall or the Church.

*Public benefits*

13. As explained above, if (contrary to the submissions above and the views of Dr. Edis) the conclusion is reached that the proposal would cause some harm to any of the heritage assets, that harm must still be weighed against the 'public benefits' of the proposal – including any beneficial effects in relation to the same assets. In practice, therefore, what is required is a balanced judgment of the *overall* effect of the proposal on the significance of those assets. If the benefits to their significance outweigh the harm, or if the harm and benefits are equally balanced, then there is no reason why the appeals should not be allowed (subject, if deemed necessary, to a condition of the sort set out in the Appellants' most recent Planning Statement to ensure that the benefits are delivered).

**JOHN HUNTER**

**Kings Chambers**

**Manchester, Leeds, Birmingham**

**23 October 2020**