APPENDIX 6 – APPEAL DECISIONS RELATING TO WORLD HERITAGE ISSUES

Since inscription, a number of Planning Appeals have taken place in the Derwent Valley Mills and other World Heritage Sites, which have been refused on World Heritage grounds. The following paragraphs have been lifted out of the inspectors' statements, as they provide precedent for future planning decisions and appeals, particularly over setting issues. Headings have been added to provide indicators as to themes.

A6.1 Bullsmoor, Belper

Appeal A Ref: APP/M1005/W/17/3183493. Appeal B Ref: APP/M1005/V/18/3194115. Land at Bullsmoor, off Nottingham Road, Belper DE56 1JS. The former development proposed a maximum of 150 dwellings and employment floor space, the latter for industrial development. Appeal dismissed in both cases. Decision date: 11 October 2018.

Importance of the relict landscape

Paragraph 134: The Outstanding Universal Value of the WHS lies primarily in the survival of an industrial landscape of great historical and technological significance. The mill complexes and their settlements remain in a largely rural landscape, just as they were when they were built. The survival of that unique cultural landscape, arrested in time in the 19th century, provides an insight into just how remarkable it was for these large industrial establishments and their associated settlements to be imposed on an admired rural landscape. Beyond the boundary of the WHS, the most sensitive parts of the relict landscape are protected by a buffer zone. As well as providing an important historic setting for the WHS, the relict landscape allows the 18th/19th century industrial development to be appreciated in an 18th/19th century landscape, and is in itself an attribute that contributes to the OUV of the WHS.

Paragraph 135: The significance of the WHS thus lies not just in the historical, cultural and evidential value of the early industrialisation of the Derwent valley but also in the survival, almost intact, of the contemporary rural landscape into which it was set. The ability to appreciate the mills and settlements in their original landscape setting contributes hugely to the significance of the WHS as a heritage asset.

Unfolding views

Paragraph 139: The site is some distance from the WHS boundary and there is limited intervisibility. However as I found on my site visit, when walking through the historic landscape on the old footpaths, the site is included in many unfolding views of the WHS and, experienced like this, is

clearly part of its relict landscape setting. Walking through the unchanged landscape on the same footpaths and country lanes today allows a clear appreciation of how 18th/19th century workers, walking to work, would have seen the industrialised areas from the countryside. It informs an understanding of the remarkable imposition of industrial development on the valley landscape.

The historic relationship between the relict landscape and the WHS

Paragraph 140: From Monitoring View 36, across the river valley, the fields at Bullsmoor are a distant part of a wider panoramic view which takes in virtually the whole of Belper. However, from this point, and from the nearby footpaths, the historic relationship between the relict landscape and the WHS, and the contribution that makes to its OUV, is very apparent. The encroachment of built development and the loss of the fields at the site would noticeably reduce the extent of the open landscape setting of the WHS.

The cumulative effect of development

Paragraph 141: The site represents a fairly small part of the overall setting of the WHS in the Derwent valley. The appellants argue that the loss of a relatively small site, in itself, would not seriously jeopardise the significance of the WHS as a whole. However, the degree of local harm identified above should not be underestimated. Such reasoning could be used to justify similar proposals elsewhere in the buffer zone, and a proliferation of similar, relatively minor schemes throughout the WHS could, on a cumulative basis, result in very significant harm to the relict landscape setting of the WHS.

Paragraph 42: The loss to development of the fields at Bullsmoor would weaken the heritage authenticity of the relict landscape as a functionally important attribute of the WHS. It would diminish the quality and extent of the original landscape setting of the WHS and thus substantially reduce the contribution the setting makes to the OUV and to the distinctive character of the WHS. The significance of the WHS as a heritage asset would be considerably undermined.

A6.2 Darley Abbey

Appeal A Ref: APP/C1055/W/15/3137935. Appeal B Ref: APP/C1055/W/15/3141117. Land off North Avenue, Darley Abbey, Derby DE22 1EZ. The development proposed in both cases was a residential development of up to 49 dwellings and areas of open space. Appeal dismissed in both cases. Decision date: 22 July 2016.

Appreciating the WHS as a whole

Paragraph 20. It is important to appreciate the WHS as a whole, rather than simply the various mill clusters and their associated buildings. This means the complete 24km stretch of the Derwent Valley including the river, other watercourses, the landscape, and the built environment such as farmsteads supplying the factory workers, and religious buildings, whether listed or not.

Protecting the remaining open landscape

Paragraph 26. The appeal site, as part of the WHS setting, contributes to the open, agricultural nature of the WHS within which early industrial activity took place. Although some remodelling of the land may have taken place, this appears to be relatively superficial since the basic profile of the side valley is clear, and medieval ridge and furrow field patterns are evident to the south. Although other parts of the buffer zone are heavily urbanised, it is important to protect the remaining open landscape and the designation provides protection against further damage.

Protection from minor but cumulative changes

Paragraph 36. Paragraph 138 of the NPPF notes that not all elements of a World Heritage Site will necessarily contribute to its significance. Nevertheless, overall, the WHS represents an asset of very high value. Although the appeal site represents a small fragment of the 24km long WHS, the proposals' local harm should not be under-rated when considering the effect on the WHS as a whole. It should not lie below that of a similar effect on a much smaller world heritage site, otherwise such reasoning could lead to the proliferation of similar harm throughout the WHS. Planning Practice Guidance (PPG)9 endorses the principle of protecting a World Heritage Site from the effect of changes which are relatively minor but which, on a cumulative basis, could have a significant effect.

A6.3 Hill Top, Belper

Appeal Ref: APP/MlOOS/A/10/2142571 Land at Hill Top Farm, Mill Lane, Belper, DES6 1LH. The development proposed is erection of 75 dwellings together with associated infrastructure including new vehicular and pedestrian access, landscaping and public open space. All matters reserved save for means of access. Appeal dismissed. Decision date: 3 .June 2011. This decision predates the introduction of the National Planning Policy Framework, but still has some value.

Green landscape that remains is very important

Paragraph 10. It seems to me that at the very heart of the designation of the WHS is that this minor, essentially rural little river valley had the new (as it was then) industrial factory system superimposed upon it. Hence the elements of the green natural landscape that remain, close to the

heart of Belper are a very important part of the setting and indeed the meaning or significance of the WHS. The appeal site and the rest of the abutting open land alongside the Coppice Brook and The Park represent a tongue of green, natural landscape that weaves into the eastern side of the settlement and, to my mind, forms an intrinsic part of understanding the setting of the WHS - the associative connection between the historic events that happened here and its wider surroundings.

Green, open setting is an important element

Paragraph 12. It seems to me that the green, open setting of the WHS here at the appeal site is an important element of the whole. Its physical self and its historical relationship with the WHS are freely accessible and visible to anyone who wishes to contemplate the significance, meaning and Interest of the WHS. As such, the development of the site would fundamentally alter this.

A6.4 Coalbrookdale Works, Wellington Road, Coalbrookdale, Shropshire

Appeal A: APP/C3240/W/24/3340261 and Appeal B: APP/C3240/Y/24/3340266, Coalbrookdale Works, Wellington Road, Coalbrookdale, Shropshire TF8 7DX. 101 new dwellings plus works to facilitate the conversion of the former compressor house and reconstruction of the former pattern shop to provide 3 dwellings. Appeal dismissed. Decision date: 24 July 2024.

Status of ICOMOS

Paragraph 12. The Council has questioned the status of comments provided by ICOMOS and considers that risks to the WHS are not a 'material consideration'. Those risks however ultimately reflect the potential for harm to the Outstanding Universal Value (OUV) of the WHS identified by ICOMOS. ICOMOS is an advisor to UNESECO, whose World Heritage Committee is the body responsible for designating and delisting WHSs. The UK has treaty obligations in respect of the latter, which are currently reflected in national policy set out within the National Planning Policy Framework (the Framework) and Planning Practice Guidance. The role played by ICOMOS in relation WHSs mean that its comments and concerns are of direct relevance to assessing the scheme's performance against national policy. That being so, whilst ICOMOS may be a non-statutory consultee, I attach great weight to its comments and have taken them into account accordingly.

A6.5 Chacewater, Cornwall

Appeal Ref: APP/D0840/W/16/3153632 Land South of Chacewater Hill, Chacewater, Cornwall TR4 8JT. The development proposed was outline planning application for 57 dwellings, the provision of public open space and associated works. All matters except access left as reserved matters. Appeal dismissed. Decision date: 14 December 2016.

No attribute should be given greater weight than another

Paragraph 18. It seems to me that the WHS is made up of all its attributes and that none should be given greater priority than another; it is an integral whole. Thus the fields of smallholdings are important to an overall understanding of the WHS as they show miners often had second areas of work.

Legibility of remaining landscape highly important

Paragraph 19: As the Statement of OUV makes clear the landscapes of Cornwall and west Devon were radically reshaped during the eighteenth and nineteenth centuries and will have overwritten the pre-existing landscape to a greater extent. The legibility of the remaining smallholding fields is therefore highly important in understanding the significance of the WHS. In addition, to my mind, the radical reshaping gives greater importance to any pre-existing field patterns that were retained as part of the 'new' integrated landscape.

Cumulative effect of losses undesirable

Paragraph 21: The appellant makes the point that the appeal site does not represent the whole of a former smallholding. However, to discount the importance of the remaining fields would allow for the cumulative effect of the loss of historic record leading to an overall significant effect, which is specifically noted as being undesirable in the PPG.

Paragraph 26: The International Council on Monuments and Sites (ICOMOS) Guidance on Heritage Impact Assessments for Cultural World Heritage Properties (2011) sets out an approach to judge the scale or severity of impacts or changes taking into account their direct and indirect effects and whether they are temporary or permanent, reversible or irreversible. The cumulative effect of separate impacts should also be considered. It then goes on to note that the significance of the effect of change, that is the overall impact, on an attribute is a function of the importance of the attribute and the scale of change.

Permanent and irreversible harm, no matter the percentage of WHS affected

Paragraph 27: If permission were to be granted it would have a direct effect on the legibility of the smallholding, as a key attribute of the WHS, and would be permanent and irreversible. Whatever the precise percentage there has been a significant reduction in the number of surviving smallholding boundaries in the area since the 1840s. This increases the importance of the remaining smaller fields which are an integral part of the overall authenticity and integrity of the WHS. Even taking into account that the appeal site is only a very small percentage of the overall WHS I therefore conclude

that the severity of the impact would represent a major change and would have a major adverse effect as smallholdings represent a key attribute of the WHS.

A6.6 Hayle, Cornwall

Appeal Ref: APP/D0840/W/15/3006077 Land South of St George's Road, Hayle. The development proposed was a residential development of 222 dwellings, associated public open space and the provision of land to facilitate the expansion of Penpol Primary School.

Inspector Stephen Roscoe BEng MSc CEng MICE. Decision date: 04 May 2016. Appeal dismissed.

Blurring past evidence

Paragraph 24: The proposal would introduce a scale of development that would be incompatible with this part of the WHS. It would result in some loss of the legibility of the edge of the historic town. The appellant's heritage assessment accepts that 'the evidence from the past would become blurred although not entirely illegible'. Legibility would however be compromised, and the proposal would affect the strong visual clue of the restricted valley bottom nature of the industrial settlement. Whilst the important story would remain, it would be significantly modified in terms of changes to its immediate setting.

Dominating the setting

Paragraph 25: The proposal would also be elevated above the Millpond Avenue area of the WHS and, as such, would tend to dominate the immediate setting of this part of the WHS. This would result in the loss of a positive and important contributor to the immediate setting of this part of the WHS and to the significance of the WHS as a whole in relation to the management plan. The loss would affect the ability to appreciate the significance of the part of the WHS, and have an adverse impact on its OUV.

ICOMOS assessment re impact on setting

Paragraph 35: Turning now to other relevant matters, the appellant argues that indirect effects, such as on setting, should generally be less than direct effects. The ICOMOS methodology however generally does not reduce the value of significance of setting in the moderate category of built heritage impact and, notwithstanding the appellant's suggestion, I can see no reason to do so here. Firstly, it would appear to be contrary to the ICOMOS assessment method. Secondly, the interrelationship between the components of the WHS, which is necessary for its significance, accentuates the importance of the setting as the appreciation of the WHS is gained from a wider view. Thirdly, the appeal site is the only remaining element of open countryside in a number of views from this part of the WHS. Any development on it should therefore respect the WHS.

Furthermore, setting as such would always lie outside the WHS and setting features in the ICOMOC methodology, even if it is, as the management plan puts it, to provide ‘additional historic context’.