

Memo

To	Mark Ollerenshaw	Date	3 February 2016
From	Karen Heverin	Ext	3717
Subject	Dobcross Works, Huddersfield Road LB/337929/15		

Memorandum

Mark,

The proposal

The proposal is to remove part of the link bridge which connects the first floor of the Grade II listed WH Shaw Ltd. Dobcross Works Office Building, Huddersfield Road, Diggle, with the former loomworks buildings to the rear. I have considered this proposal with reference to the Section 66 of the Planning (Listed Building and Conservation Areas) Act 1990, Chapter 12 of the NPPF and Policy 24 of the LDF, in addition I have referred to the Good Practice Guides and Planning Guidance for historic assets.

The extent of listing

I consider this bridge to be part of the listed building. This decision is based on the age, ancillary nature, and ownership of the bridge and the legal advice provided to the Council.

In assessing the significance of this element of the site, legal advice has been taken by the Council to establish the curtilage of the listed building. The following is an extract of the legal advice:

Definition of a listed building

Section 1(5) of the Planning (Listed Buildings and Conservation Areas) Act 1990 defines a listed building as:

“... a building which is for the time being included in a list compiled or approved by the Secretary of State under this section; and for the purposes of this Act—

- (a) any object or structure fixed to the building;
- (b) any object or structure within the curtilage of the building which, although not fixed to the building, forms part of the land and has done so since before 1st July 1948, shall, subject to subsection (5A)(a), be treated as part of the building.”

Case law

The meaning of section 1(5) of the Act and its statutory predecessor has been considered by the courts on a number of occasions over the years. Counsel referred to the following passages from the case law to show how that subsection should be approached:

“... three factors have to be taken into account in deciding whether a structure (or object) is within the curtilage of a listed building...whatever may be the strict conveyancing interpretation of the ancient and somewhat obscure word ‘curtilage’. 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. Where they are in common ownership and one is used in connection with the other, there

is little difficulty in putting a structure near a building or even some distance from it into its curtilage.” (*Attorney-General ex relater Sutcliffe v Calderdale BC* (1982) 46 P. & C.R. 399, at p 406).

“... the word ‘structure’ [in section 54(9) of the Town and Country Planning Act 1971, the predecessor to section 1(5) of the 1990 Act] is intended to convey a limitation to such structures as are ancillary to the listed building itself, for example the stable block of a mansion house, or the steading of a farmhouse, either fixed to the main building or within its curtilage. ... the concept envisaged is that of principal and accessory.” (*Debenhams Plc v Westminster City Council* [1987] AC 396, 403F-G).

“... In the context of what is now Part I of the Act, the curtilage of a substantial listed building is likely to extend to what are or have been, in terms of ownership and function, ancillary buildings. Of course, as Stephenson LJ noted in the *Calderdale* case, 46 P & CR 399, 407, physical ‘layout’ comes into the matter as well. In the nature of things the curtilage within which a mansion’s satellite buildings are found is bound to be relatively limited. But the concept of smallness is in this context so completely relative as to be almost meaningless, and unhelpful as a criterion.” (*Skerritts of Nottingham Ltd v Secretary of State for the Environment, Transport and the Regions* [2001] QB 59, 67D-E).

“... the primary focus of enquiry should be on the state of affairs [at the date of listing]” (*Morris v Wrexham County Borough Council* [2002] 2 P&CR 7, para 34).

“... building A is within the curtilage of building B if (1) the buildings are sufficiently close and accessible to one another, and (2) in terms of function, building A is ancillary to building B” (*Morris*, para 33).

Guidance

Historic England’s website gives the following guidance on buildings and structures within the curtilage of or fixed to a listed building:

“Curtilage buildings

In general, any pre-1948 structure that formed part of the land and was in the curtilage of the principal listed building at the date of listing (or possibly 1 January 1969 for buildings listed before that date - this is not a settled point of law) and is ancillary to the principal building is considered to be part of the listing.

Objects and structures fixed to the building

In general, a structure attached to a building, such as adjoining buildings or walls, will also be covered by the listing if the structure was ancillary to the principal building at the date of listing.

An object fixed to the principal building, such as a shop awning or a chandelier will be protected by the listing if it is a ‘fixture’ according to the usual land law principles. The key considerations in determining this are:

- The method and degree of annexation of the object to the building, the ease with which it can be removed and the damage caused to the structure or object by its removal; and,
- The objective and purpose of the annexation to the building – whether this was for the improvement of the building or for the enjoyment of the object itself.

Plant and machinery, even if it forms part of the land, cannot of itself be a building and therefore cannot be listed in its own right. It can, however, be protected by listing if affixed to a listed building in a way that satisfies these tests.

Extensions or alterations to listed buildings made after listing form part of the listed building and are subject to the protection regime.

As from 26th June 2013 some new list entries or list entries amended after that date may expressly exclude certain attached structures or objects from protection.”

Counsel’s advice

The view was that the listed office building was part of a substantial manufacturing complex, devoted first to the manufacture of looms and then the manufacture of pallets. The office provided the space in which administrative tasks supporting the manufacturing processes were carried out. In terms of scale and function the view taken was that the listed building was ancillary to the other principal buildings and structures around it at the time of listing in 1968.

As a result, applying the case law and the guidance from Historic England referred to above, it was Counsel’s view that the listed building is likely to have had a restricted curtilage, not extending to any other building or structure in its vicinity (unless those buildings and structures could be said to have been ancillary to the office building). If anything, it is more likely that the office building was within the curtilage of the primary manufacturing buildings (particularly the large building to which it was linked by a footbridge) than the other way round.

As a consequence of this advice, it has been concluded that the buildings to the rear, attached to the end of the bridge, are not within the curtilage of the listed building and are not listed by association. As a consequence of this conclusion, I have considered the significance of these buildings using the Conservation Principles published by English Heritage and would consider the pre 1948 non-listed buildings on the site to have a degree of significance meriting consideration in planning decisions. Therefore they should be considered as non-designated heritage assets.

The character and significance of the structures

In considering planning applications para 131 of the NPPF states the LPA should take account of the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation. I consider the removal of part of the bridge would impact on the listed office building incorporating the bridge and the non-listed buildings to the rear. I do not consider its alteration will have a noticeable impact on the setting of the surrounding listed buildings or conservation areas.

The Office Building

The office building is of national significance, reflected in its Grade II status. The offices are understood to be late Victorian and demonstrate Gothic styling, characterised by the high gables, bays, prominent chimneys and tall mullioned window sets. The ashlar stone and Westmorland slate roof visible to the prominent front and side elevations support the architectural quality of the building. The advanced entrance bay with clock tower, ensure this building is a landmark within the local area where it faces the ‘Foundry View’ Terrace and the clock appears to be directed towards ‘Moordale’ the residence of the former owner of the works, situated on Huddersfield Road.

The decorative and high quality materials and details used on the front and side elevations of the building diminish on the rear elevation. Here the type of stonework changes from ashlar to hammer dressed and plain head and cills are used. The porch, which supports the end of the bridge, contains greater detailing, with chamfered corners, and I would not disagree with the conclusion in the Statement of Significance, that this is likely to have been an addition to the original design concept.

The aesthetic significance of this building is supplemented by its historical associations with the loomworks, which played an important national and international role in the production of looms for

the woollen industry. The buildings to the rear provide a context for the listed building and this is reflected in its inclusion in the Historic England designation guidance for Commercial and Exchange Buildings, where it is noted that 'many otherwise utilitarian and industrial buildings were given some architectural panache by the design of their offices and administration buildings'.

The office building is of high significance as a consequence of these characteristics. It is not currently in use.

The non-listed buildings to the rear

I have considered the impact of the proposed change on the character of the non-designated heritage asset which forms the works building to the rear, as required by para 135 of the NPPF.

The building, noted as Building A, in the application documents, has been heavily altered due to a fire. However, the part of the building to which the bridge is attached pre-dates the listed office and is thought to have been constructed around 1893 as part of the foundry building. It has a markedly different style to the listed office. The traditional pitched faced local stone and slated hipped roof of this element provide an example of the utilitarian aesthetic of the works building when compared to the gothic office. It, along with the other pre-1948 buildings, also provide the historical context for the development of the site as the globally important loomworks. I would agree with the conclusion of the Environmental Statement and consider the non-listed designated assets, when taken as a whole, to be of medium significance, whilst taken individually the buildings have elements of low significance.

The bridge

The bridge between these two buildings has utilised the riveted bolt sections prevalent in railway bridges. I agree with the Statement of Significance that this is likely to have been a slightly later addition to the office building as the architectural detailing used to connect it to the building lacks the considered approach one would expect if it had been part of the original design. Nevertheless, to assess significance it is important to establish the use of this type of construction in this context and I do not consider the application has adequately explored this. It is stated that this is typical of railway construction and photographs are provided which show similar sections on nearby road bridges and at a railway station. However, it is not shown where this type of construction has been used in the setting of an industrial complex and the significance which may be attributed to its use in such a setting. A statement is made that this bridge could have been reused from elsewhere, but, in establishing significance, I consider it important to understand how prevalent the use of this type of bridge construction was in scenarios other than the railway industry.

Additionally, I agree that the bridge is not visible from the prominent view of the works taken from Huddersfield Road. It is apparent in views from the canal to the rear, but from its location and construction it would not appear to have been conceived as an important element of the setting of the gothic listed building.

The aesthetic qualities, whilst differing from those of the listed building, remain interesting in themselves and highlight another period of development of the site. This difference does not diminish its historic interest in forming the connection between the two different elements of the same works. I agree with the conclusion in the Environmental Statement that the link bridge is of high value, using their assessment for 'receptor sensitivity', as it forms part of the listed building. I find it difficult to conclude the impact of the loss of a portion of this without clarifying the significance of the bridge construction in this context.

Impact of loss

The removal of part of the bridge would remove the physical link between the listed building and the utilitarian works buildings, which provide the context for its construction.

Its design is markedly different from the public facing facades and I would not think it unusual for contrasting style to be used to form this link. However, because it retains its original purpose, materials and position I consider it essential to fully explore the level of significance of the use of such a form in an industrial complex setting. Without this the impact of its loss and level of harm as noted in the NPPF, cannot be fully considered

Justification for Loss

Para 132 of the NPPF states any loss requires 'clear and convincing justification'. The argument put forward by the applicant states the site as a whole is unviable, the marketing exercise has proved unsuccessful and the planning statement accompanying the application states, '*this application seeks to remove the bridge in order to separate the listed building from the non-listed building, this will help secure the future of the listed building and will allow clearance of the wider site for potential future development*'. It also states that there is a concurrent planning application for the erection of a new school but should that application be refused WRT Developments will still require the site cleared for potential future development.

I am also considering three other applications for this site. These include the demolition of 5 buildings and the construction of a school. I have noted that the listed building does not form part of these applications. In light of this, I suggest clarification is sought as to how a sustainable long term use of the listed building will be secured if these works are found to be acceptable.

Finally, if the Local Planning Authority were minded to approve this application, may I suggest requesting details of the timber to be used to board the end of the bridge, and securing the repair of all the elements of the bridge to remain, to ensure sufficient quality of materials are used to maintain a weather tight construction.