The Planning Inspectorate

# Appeal Decision

Site visit made on 1 December 2020

**by J Hunter BA (Hons) MSc MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 18th December 2020**

**Appeal Ref: APP/W4705/W/20/3259329**
**The Gatehouse, Upper Shibden Hall, Halifax Road, Queensbury BD13 2NN**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
- The appeal is made by The Shibden Estate Company Ltd against the decision of City of Bradford Metropolitan District Council
- The application Ref 20/02281/HVC, dated 15 June 2020, was refused by notice dated 11 August 2020.
- The application sought planning permission for restoration of gatehouse without complying with a condition attached to planning permission Ref 20/00940/HOU, dated 4 May 2020.
- The condition in dispute is No 6 which states that: Notwithstanding the provisions of The Town and Country Planning (General Permitted Development) (England) Order 2015 (or any subsequent equivalent legislation) no development falling within Classes A to E of Part 1 of Schedule 2 of the said Order shall be carried out without the prior written permission of the Local Planning Authority.
- The reason given for the condition is: To accord with Policies DS3 and DS5 of the Core Strategy Development Plan Document.

## Decision

1. The appeal is dismissed.

## Background and Main Issue

2. Planning permission was granted for restoration of the gatehouse which included a condition removing permitted development rights for any development falling within Classes A to E of Part 1 of Schedule 2 of the General Permitted Development Order (GPDO). The Authority considers the condition to be necessary to accord with policies DS3 and DS5 of the Bradford Core Strategy 2017. The appellant, however, objects to the condition as they consider it to be unreasonable and unnecessary.

3. The main issue, therefore, is whether the condition is necessary and reasonable in the interests of the character and appearance of the area.

## Reasons

4. The National Planning Policy Framework at paragraph 55 states that planning conditions should be kept to a minimum and only imposed when they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects. More specifically,

paragraph 53 states that planning conditions should not be used to restrict national permitted development rights unless there is clear justification to do so. The Planning Practice Guidance advises that area-wide or blanket removal of freedoms to carry out small scale domestic and non-domestic alterations that would otherwise not require an application for planning permission are unlikely to meet the tests of reasonableness and necessity.

5. In this case, planning permission has been approved for the restoration of the gatehouse building and the proposed site plan shows the gatehouse as a dwelling with an external parking area to the front and enclosed rear garden area. The planning application was assessed against Policies DS3 and DS5 of the Core Strategy which aim to, amongst other things, secure developments that are of high-quality design that are appropriate to their context in terms of layout, scale, density, details and materials.

6. I saw from my site visit that the appeal building, although presumably once part of the wider Shibden Estate, is a lone building located close to the stone field boundary that adjoins Swales Moor Road at the junction where it meets Halifax Road. From this view, to the north, it appears as a very modest single storey building that sits against a backdrop of open countryside. When viewed from within the field in which it sits, the topography of the land is such that the rear of the building is double height and relatively conspicuous in the context of the open landscape to the south and east in particular.

7. I note the main parties' submissions in relation to the site's Green Belt location and the Council's admission that there was an oversight in not referring to the relevant Green Belt policies in the reasoning for Condition 6. Nonetheless, it is clear that the Council have considered the impact on the Green Belt, as has the appellant within their submissions. Therefore, although the Green Belt policies are not directly referred to in the reason attached to Condition 6, the policies that are referred to relate to the character and appearance of the area which would include the context of the site in the open countryside and its Green Belt location.

8. The Council refer to the appeal building as being a non-designated heritage asset and I would agree that by virtue of its association with Shibden Hall and the wider estate, as well as its befitting architectural detailing the building is of architectural and historical merit. Therefore, I consider that it would be reasonable to determine that any alterations such as those detailed within Classes A- E of Schedule 2 of the GPDO would have the very real prospect of diminishing the character and appearance of the building and the surrounding open countryside.

9. The removal of permitted development rights would not preclude the appellant or any other future owners of the property from applying for planning permission for alterations in the future. This may not be an attractive prospect for potential purchasers of the property. Nonetheless, I am satisfied that there is very clear justification for removing such rights in order to ensure that any future development would be sympathetic to the host building and surrounding area.

**Conclusion**

10. In light of the above reasons, I consider that in the interests of the character and appearance of the area, condition no 6 of planning permission

Ref: 20/00940/HOU is necessary and reasonable and accords with the aforementioned requirements of the Core Strategy Policies DS3 and DS5. I therefore conclude the appeal should be dismissed.

*J Hunter*

INSPECTOR