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PLANNING (LISTED BUILDINGS AND CONSERVATION AREAS)
ACT 1990

REPORT ON
THE FIXTURES AND FITTINGS AT
BAGDALE OLD HALL
WHITBY

PREPARED ON BEHALF OF

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1.00 INTRODUCTION

1.01 I was instructed jointly by Hammond Suddards (solicitors) of 2 Park Lane, Leeds LS3 1ES and by Shoosmiths & Harrison of The Lakes, Northampton NN4 7SH on behalf of their clients, LPA Receivers (Mr Blackburn and Mr Stein) and MCCL, to provide independent expert evidence of the value of a number of artefacts in a property known as Bagdale Old Hall, Whitby, West Yorkshire, as of March 1993, together with advice as to whether those artefacts are fixtures or chattels, and whether it is likely that listed building consent would have been given for the removal of them if they were fixtures. In addition I was asked to provide a valuation of each of the chattels as of March 1993 on the assumption that they could be sold separately and, if they could not be sold separately, an indication of what value, if any, that those chattels/fixtures might add to the property.

1.02 The chattels/fixtures referred to are (1) the Venetian wall sculpture of St. George and the Dragon located on the outside of the wall of the building and (2) the Delft/Meissen tiles that surround a number of the fireplaces (3) a well-head which stands in the entrance court.

1.03 I am concerned that "various chimney pieces", a "bell pull" and a "lantern" are also referred to but for each of these I do not have sufficient information to comment further.

I visited the site on 9th July 1997 and was accompanied by Ms Sara L Field of Hammond Suddards.

1.1 Qualifications and Experience

- 1.1 I am Giles Thomas Quarme. I am a member of the Royal Institute of British Architects, a member of the Society for the Preservation of Ancient Buildings, a member of the Executive Committee of the International Council on Monuments and Sites (ICOMOS), a member of the Association for Studies in the Conservation of Historic Buildings (ASCHB) and a fellow of the Royal Society of Arts and the Royal Asiatic Society.
- 1.2 I was awarded a Bachelor of Arts degree with Honours in Art History from the University of East Anglia.
- 1.3 I also hold a Bachelor of Arts degree with Honours and a postgraduate Diploma in Architecture from the Polytechnic of Central London.
- 1.4 I attended the Architectural Association Conservation Course and was awarded a postgraduate Diploma for Conservation Studies.
- 1.5 I have advised and participated at conferences on Listed Buildings for the National Health, the Indian National Trust (INTACH), the Organisation for the Protection of the National Patrimony in Romania.

- 1.6 I have worked under the auspices of the British Council as a consultant advisor on the restoration of the National Gallery of Romania in Bucharest. I was sent by Oxford Brooks University and the British Academy to advise on the restoration of historic building in the north western province of Pakistan.
- 1.7 I have advised the Victorian Society, and I am presently on the executive and technical committees of "Save Britain's Heritage", the Ancient Monuments Society and ICOMOS UK.
- 1.8 I qualified as an Architect in 1980 and worked with John Dickinson in London.
- 1.9 In 1987 I established my own practice specialising in the restoration of historic and listed buildings.
- 1.10 My practice is on the list of approved architects for the Crown Estate, Department of the Environment, English Heritage and Diocese of both Southwark and London.
- 1.11 I have both taught and lectured on historic buildings at the Architectural Association, Lunds University, Sweden and the University of Baroda.
- 1.12 I have extensive experience in general architectural practice with particular emphasis on work to listed buildings and buildings within Conservation Areas.

- 1.13 My practice was awarded two separate Civic Trust Commendations and a Europa Nostra Order of Merit Award for our work on the Royal Victoria Patriotic Building in Wandsworth. I received an environmental award for my work on historic buildings in the Royal Borough of Kensington & Chelsea.
- 1.14 In 1995, I was the UK representative at the EU advising on the awarding of Historic Building Grants throughout Europe.
- 1.15 I am currently advising Foster & Partners on the restoration of the British Museum as part of the Great Courtyard Millennium Project.

1.2 Scope of the Report

- 1.2.1 The following report is produced on the basis of my examination of the building and the chattels/artefacts contained within it. I have researched the availability and value of reclaimed Delft tiles from reputable architectural salvage companies such as LASSCO (London Architectural Salvage Company) of St. Michael's Church, Mark Street, London EC2, and have obtained indicative valuations of such tiles from a reputable firm of auctioneers, Bonham's of Montpelier Street, Knightsbridge, London SW7. I have also sought the opinion and valuation for the figure of St. George and the Venetian well-head from an established antique dealer that specialises in the sale of similar architectural objects, Nicholas Gifford-Mead of Pimlico Road, London SW1 and a copy of his valuation is contained in Appendix 1.

1.2.2 First I provide a short history of the Hall. I then go on to deal with a description of the rooms and specifically the artefacts in them. Following on from that I have prepared an analysis of the Listed Buildings legislation and its application in this scenario.

2. Bagdale Old Hall

2.1 Bagdale Old Hall is situated near the centre of the old town of Whitby which is located on the North Sea coast of West Yorkshire. The town is best known for its famous Abbey and the local legend relating to Count Dracula's alleged arrival in the town in a coffin on a plague-ridden ship.

2.2 The town is extremely old and was settled before the Norman Conquest. It was dominated by a number of noble families who were often in contention with the monks of the aforementioned Abbey. One of those families, the Conyers, owned Bagdale Old Hall and used it as one of their residences. At that time it had not been absorbed by the post Mediaeval expansion of the town. It was originally constructed in a field "near unto Whitbie - the grass grew green around it and the Beck murmured its way past to the river" as described in a will which was proved on 27th May 1595 and presumed to be that of Nicholas Gaskin.

2.3 We know that Gregory Conyers was living in the Hall in 1540 as he was involved in many disputes with the monks about tithes of corns which the Abbey disputed

his right to, his improper acquisition of the office of bailiff and the purloining of various seals and “takes”. The dispute was so contentious that the monks even appealed to Thomas Cromwell for assistance. Such an appeal is extremely odd given the fact that Thomas Cromwell had since 1536 been dissolving and selling off most of the abbeys and monasteries on behalf of the King and was hardly likely to alienate a future purchaser of the Abbey lands.

- 2.4 An early 16th Century date for the construction of the house is confirmed by the DoE statutory listing description which was issued on 23rd February 1954. The building is described as:

“Early 16th Century. Restored 1883 and subsequently. Principal part L-shaped; two stories and gabled attics. Ashlar; three and four light stone mullioned windows with cornice above first floor, three light mullioned windows to capped gables with kneelers. Two light mullioned windows in capped and kneelered gable dormers. Bagdale Old Hall was the seat of several noted local families and the home of Browne Bushell, son-in-law of Sir Thomas Fairfax. He was hanged as a traitor in 1651. Panel brought from Merceria in Venice and mentioned by Ruskin, built into one of walls (see P. Shaw Jeffrey “A short history and description of Bagdale Old Hall” 1945).”

- 2.5 The property is assessed as having group value and is listed Grade II*.
- 2.6 The building would appear not to have been re-examined since 1954. The lack of any description of the interior would support that the interior was not inspected at

the time. Its status as Grade II* is of considerable significance. Guidance on the interpretation on the legislation controlling works to listed buildings was provided by Circular 8 / 87 up to September 1994 when that Circular was replaced by the Planning Policy Guidance document 15 which is currently in force. The Circular described listed buildings and the importance of the grading in appendix 1 and states the following:

“Grade I. These are buildings of exceptional interest (only about 2% of listed buildings so far are in this grade).

Grade II*. These are particularly important buildings of more than special interest (some 4% of listed buildings).

Grade II. These are buildings of special interest, which warrant every effort being made to preserve them.”

2.7 It can be seen from the percentages that 94% of all listed buildings are Grade II and only very exceptional buildings are listed Grade I or Grade II*.

2.8 The building had a chequered career and though owned by many important families gradually deteriorated as the boundaries of Whitby town approached. By the late 19th Century the house had been overwhelmed by the surrounding terraced houses and all the land except the area directly surrounding the house, was sold for redevelopment for £27.00.

2.9 The house was then occupied by a variety of tenants which included a miller, a laundress and many others. Part of the present drawing room was converted into a small school whilst the top storey was used, according to Sir D’Arcy Power, as a “Hunger Arbour”. That was his description of a place where tramps slept who brought their own bedding, (if they were fortunate to possess any!). As one would expect, the fabric of the house suffered from such unsympathetic tenants and lodgers. The beautiful panelling was torn down from the walls to be used as firewood and the staircase gave way. Finally in 1882 Dr. Henry Power, “a famous London oculist”, whose wife held a share in the freehold of the house, bought out the other legatees and with the assistance of a local architect, Mr Armfield, set about restoring the building.

2.10 After the death of Mrs Power in 1914 the property changed hands and was restored again. Much of the interior appearance of the building would appear to date from this period when the fireplaces were opened up and the original Oak beams were exposed.

2.11 Mr Shaw Jeffrey’s description of Bagdale Old Hall, made in 1945, describes a number of the features that are the subject of this report, which I have been asked to deal with. I summarise each and then provide my preliminary comments on the value of each. They are as follows:

2.12 THE ARTEFACTS

(A) Delft Tiles

1. “It has on the ground floor three large reception rooms and a handsome lounge hall, which measures 22’6” x 17’6” and contains a beautiful carved Oak and tiled fireplace....”

This room can be still identified today as the hotel reception area with its surviving fireplace. The fireplace has an extremely fine arts and crafts mantelpiece of beaten copper and stained wood. Behind and below the firebasket are a wide variety of blue Delft tiles laid in an alternate checker-board pattern of plain and decorated tiles, (see photos 1 and 2). The Delft tiles show signs of considerable damage to their edges and arrises and would appear to have been re-used from other locations. The tiles also vary considerably in appearance and design. Some are simple illustrations of windmills or animals whilst others depict mythological scenes and complicated botanical specimens. In addition the corner decorations all vary as well as the colour and craquelure which would suggest that they came from many different sources. The diagrammatic appearance of the objects depicted would appear to date them to the late 17th and 18th Century. The alternating white tiles, by comparison, are undamaged and all share a consistent colour, size and glaze which would suggest that they were new when installed.

2.13 There are a total of approximately 48 number decorated and whole tiles.

2.14 It has been suggested that some of the tiles in this hotel were made by Meissen. The Meissen factory were responsible for the finest china being produced in

Europe from the 17th Century onwards. Meissen was never used for tiles to line fireplaces. The china clay used by Meissen was very different to the clay used for ordinary Delft tiles. I am satisfied on inspecting all the fireplaces that there are no Meissen tiles whatsoever in this building.

2.15 *The tiles have been laid in cement mortar and a number are already cracked and damaged, probably by heat from the firebasket. It is almost impossible to remove tiles laid in cement at a reasonable economic cost without totally destroying both the tiles and any resale value that they might have. In my opinion they have no intrinsic value as fixed tiles as the removal costs necessary to ensure that they were undamaged would exceed the unfixed value.*

2.16 **2. “The study is a large room 24’9” x 18’6”, with massive Oak beams (evidently ships’ timbers). The fireplace is extremely handsome and large measuring 11’6” wide, 8’6” high, with a tiled opening 6’6” wide by 4’10” high. The mantel piece is of carved Oak, with threefold mirrored shelves on bas relief pillars with carved capitals. The tiles are Dutch...”**

2.17 The room previously called the study is now used as the upper part of the hotel dining room. The fireplace still retains its carved mantelpiece and contemporary beaten brass smoke shield. The inside of the fireplace is lined with tiles. Unlike the entrance hall the tiles all come from one source and are generally in very fine condition, (see photos 3 and 4). They have perfect un-chipped edges and have not

been re-used from some earlier source. *Judging from their appearance they would probably have come from Holland and date to the late 19th Century or early 20th Century.* Unusually for Delft tiles they have two colours, blue and green. They mostly depict landscapes by the sea with boats and windmills. They are set in a circular frame with foliate details in each corner.

2.18 *Like the first set of tiles they are set in cement mortar and would be totally impossible to move without destroying them. In my opinion they have no intrinsic value as fixed tiles as the removal costs necessary to ensure that they were undamaged would exceed the unfixed value.*

2.19 There are a total number of 139 decorated whole tiles.

2.20 **3. “The library is another fine room, measuring 30’6” x 19’, covered by an Indian prison-made carpet still as good as the day it was made, 70 years ago. It has an equally fine and more elaborate chimney piece that the study one, with fine Oak beams to the ceiling and above the windows. The measurements of this chimney piece are as follows:- width 10’; height overall 8’; tiled opening 6’ x 4’. The tiles are blue and white Delft. The mantel board is supported by four massive twisted Walnut columns and decorated with four well-carved figures, 14” high, 2 at each end.”**

- 2.21 The former library is now used as the lower part of the hotel dining room. The fireplace remains exactly as described. The mantelpiece retains its twisted Walnut columns and its well carved figures. The interior is still lined with blue and white Delft tiles. (see photos 5 and 6).
- 2.22 A few words of explanation ought perhaps be given regarding the terminology “Delft tile”. Such a term is a generic rather than a specific one, and is normally applied when describing the type of tiles found in the entrance hall fireplace. Such tiles were first produced in 17th Century Holland and remained popular ever since. Modern reproductions are still being made to this day. They were also extremely popular in England particularly after the deposition of King James II and the usurpation of the throne by William of Orange and Queen Mary.
- 2.23 English pottery manufacturers emulated their overseas rivals and copied the style, manufacturer and design of Dutch Delft tiles making them almost indistinguishable from the originals.
- 2.24 It is ironic that English Delft tiles from the 17th and 18th Century are much rarer than their Dutch counterparts and command higher prices at auction, approximately £45 - 50 each, rather than £30 - 35 each, (this information was kindly provided to me of Mr Gary Atkins of Bonham’s auctioneers).

- 2.25 The tiles used in this fireplace make no pretence at emulating 17th or 18th Century originals. Judging from their design and detail, the figures portrayed on the tiles step straight out of peasant paintings by Van Gogh and Millet. The quality of the tiles is superb. They depict Dutch peasants wearing traditional costumes and carrying out rural chores; such as going to the market, reaping the harvest, milking, sowing, etc. etc. Stylistically they date to the period immediate post 1900 and before the First World War.
- 2.26 *They were installed as new tiles and show no sign of recycling. Unfortunately their proximity to the open fire has resulted in many of them being discoloured and cracked.*
- 2.27 *Like the other tiles they have been laid in cement mortar and cannot be removed without destroying them. Unskilled efforts to remove them have occurred in a number of places which have resulted in damage to the tiles without effectively dislodging any of them. In my opinion they have no intrinsic value as fixed tiles as the removal costs necessary to ensure that they were undamaged would exceed the unfixed value.*
- 2.28 There are a total number of 143 decorated whole tiles.
- 2.29 **4. “Second floor. The drawing room is approximately the same size as the library, vis., 31’ x 18’9”. This room has also an effective chimney piece - width 10’; height to shelf, 6’, supported with two carved Oak pillars at each**

end and panelled with carvings above to ceiling height. The tiled opening is 5' wide and 4' high, deeply recessed and tiled with blue and white Dutch tiles. The chimney shelf holds much valuable oriental and Worcester china. It has a brass and steel hood."

2.30 The second floor drawing room is identified as being the same size as the library. The author probably meant the first floor as the hotel bedroom no. 2, described as the "four-poster" bedroom, otherwise matches the description of the room exactly. The fireplace with its two carved Oak pillars and its shelf for displaying china combined with the description of the firebasket hood as being made of brass and steel all confirm such an identification. **(See photos 7 and 8)**

2.31 The fireplace is totally lined with Delft tiles. In this instance the alternating white tiles repeat the same border found on the decorated tiles. The tiles depict a wide variety of different boats under sail. Like the tiles in the entrance hall it is possible that these may have been re-used as their edges show signs of damages and their faces show a wide variety of colour differentiation, probably due to exposure to heat. However there is no consistency in the differing tones of the tiles which would suggest that the tiles were originally damaged by fire and when refixed in their new position were laid in a random manner, different from their original disposition.

2.32 *The tiles do not appear to be 17th or 18th Century but probably pre-date the second restoration of the building in 1914. Like all the other tiles mentioned above they have been bedded in cement mortar and cannot be removed. In my opinion they have no intrinsic value as fixed tiles as the removal costs necessary to ensure that they were undamaged would exceed the unfixd value.*

2.33 **5. “On the same floor are the two principal bedrooms:- the panelled bedroom, 25’ x 17’9”, with a cabinet bath and hot and cold lavatory basin. Its principal ornament is a large hanging panel of ancient Egyptian tent-work, entitled “The Revolt of Women”, bought in Cairo and measuring 10’ x 4’6”. It has a handsome carved Oak mantel piece, the work of a daughter of the former owner (Dr. Power) and a fine tallboy.”**

2.34 The panelled bedroom is more difficult to identify. The description of its size tends to suggest that it was located immediately above the ground floor dining room as they both share almost identical measurements. That room is now known as bedroom 1. It also contains a carved Victorian fireplace which looks decidedly late 19th Century and could well have been the work of the daughter of the former owner of the building as described above.

2.35 The inside of the fireplace has been plastered and painted white. There are no tiles on the inside reveals except for the English Victorian geometric tiles on the hearth. *They are not particularly distinguished and have little financial value. (See photos 9 and 10). Like all the other tiles they are incapable of being removed.*

2.36 **6. “The blue bedroom with private bath and lavatory, has an enormous Mahogany wardrobe, and massive Arabian Mahogany bed, two large old fashioned standard tea caddies, and six Chippendale chairs. The modern mantel piece covers the whole end of the room, and is tiled from floor to ceiling.”**

“Both these bedrooms have large “sun beam” gas fires and their own private bathrooms.”

2.37 The blue bedroom, which has a mantelpiece which covers the whole end of the room, is now known as hotel bedroom no. 3. The fireplace has been lined with blue Delft tiles of boats which come from the same source as those found in the former drawing room, (see **photos 11 and 12**, and the aforementioned **photos 7 and 8**). Even the alternating white tiles with their decorated corners are repeated in this fireplace.

2.38 The supplier was obviously running out of tiles as the hearth is covered with a wide variety of tiles of different designs. Some are clearly 19th Century with their accurate depictions of windmills and landscape scenes with canals, whilst others are much more schematic. One very dark blue tile depicts a boat in a particularly diagrammatic manner and is probably much older than all of the rest. *It is almost certain that most of the tiles have been recycled given their general colour*

differentiation and the damage to their edges. Again, like all the others, they have been bedded in cement mortar and cannot be removed. In my opinion they have no intrinsic value as fixed tiles as the removal costs necessary to ensure that they were undamaged would exceed the unfixed value.

2.39 Well-Head

7. “External attractions. In the entrance court there is an interesting Italian well-head, late 13th Century, brought from Venice...”

2.40 The well-head that is described as being 13th Century and coming from Venice still survives in the entrance courtyard. It is an extremely fine well-head of Istrian marble. The rectilinear shape of the well-head is very unusual as they normally take the form of an enormous pestle. (see photo 14). They were extremely popular at the turn of the century and were frequently reproduced by garden ornament manufacturers. The most famous purveyor of reproduction garden ornaments was John P White whose book on garden furniture and ornaments was widely used.

2.41 However in this instance the well-head would appear to be neither a turn of the century reproduction nor a genuine late Mediaeval well-head. According to Nicholas Gifford Mead (see appendix 1) it is probably a 19th Century copy. One side has a relief of winged lion which is the symbol of the Evangelist, St. Mark, who is also the patron saint of Venice and whose body was allegedly stolen from Constantinople and re-buried in St. Marks Cathedral. Though extremely worn and

damaged, the rarity of the design of the well-head combined with its age, makes it quite valuable. Nicholas Gifford-Mead estimates that its 1993 value would have been about £4,000 - £6,000.

2.42 Sculpture of St George and the Dragon

8. “One of the side walls of the house has, built-in, a sculpture of St. George and the Dragon, also acquired in Venice, and specifically mentioned by Ruskin in his “Stones of Venice” as an outstanding work of art. There is a replica of this panel in the wall of the Merceria, Venice”

2.43 The sculpture of St. George and the Dragon is the most identifiable of all the objects mentioned by Shaw Jeffrey in his history. He does not give the statue an age despite mentioning Ruskin’s “Stones of Venice”. It allegedly dates from the 16th or 17th Century. The carving, though slightly covered in sulphate deposits caused by atmospheric pollution, is in extremely good condition given that it has been supposedly left outside for many hundreds of years (**see photo 13**). The original tooling of the stonework is clearly apparent and has not suffered from pollution or been eroded away. Italy has suffered from atmospheric pollution as badly as England and the plaster cast held at the Victorian and Albert Museum of Hadrian’s Column clearly indicate how much that carved marble column has deteriorated over the last 150 years.

2.44 In addition the iron lance has rusted and caused minor staining to the stonework. One would have expected the rust and corrosion to have “blown off” St. George’s hand and caused much greater staining. If its condition does not militate sufficiently against an early date for its creation then its style appears to be typical of the 19th Century rather than earlier.

2.45 It should be borne in mind that Italian artists have been selling antiques to tourists for a long time and have almost as good a reputation for “reproductions” as the Chinese. According to Vassari, Michelangelo’s first essay in sculpture was in the production of imitation antiques for resale to 16th Century tourists.

2.46 I am of the view, which is supported by Nicholas Gifford-Mead, that the statue dates from the 19th Century and not before. As such its value in 1993 was about £4,000 - £6,000 if sold at auction. If the vendor was required to replace it with a modern copy its replacement would be surprisingly expensive. To carve a similar relief in statutory marble would cost approximately £20,000 in England and slightly less in Italy, about £15,000. I deal below with whether the sculpture is a fixture or chattel and whether listed building consent would have been needed for its removal.

2.47 **Summary**

Pausing here, before I go on to deal with the ramifications of the Listed Building Legislation for this particular case, my estimate of the value of the "artefacts" identified by the Plaintiffs in this case by way of summary is:

	<u>Object</u>	<u>Value</u>
1.	Tiles	£0 (They cannot physically be removed)
2.	Well-head	£4 - 6,000.00
3.	Sculpture	£4 - 6,000.00

I now go on to review the Listed Building Legislation.

3.00 LISTED BUILDING LEGISLATION

3.1 *It is my belief that all the objects that are part of this report, namely the Delft tiles, the well-head and the sculpture of St. George and the Dragon, are probably all fixtures rather than chattels since in the case of the Delft tiles and the sculpture at least, they are directly fixed to the listed building. Removal therefore will require listed building consent. In the case of the well-head it is arguable that this interpretation is not quite so clear cut. I go on to examine the Listed Building legislation for each of the objects in turn and give reasons for my views as explained below.*

3.2 The legislative framework for the control of works in respect of listed buildings is contained in section 7 of the Planning (Listed Buildings and Conservation Areas) Act 1990. Section 7 states that

"Subject to the following provisions of this Act, no person shall execute or cause to be executed any works of demolition of a Listed Building or for its alteration or extension in any manner which would affect its character as a building of special architectural or historic interest, unless the works are authorised".

3.3 Guidance on the interpretation of that legislation is now provided by planning policy guidance note (PPG) 15 which came into force in September 1994. However at the time that any sale would have taken place the then current guidance was contained in circular 8/87 that was drawn prior to the above mentioned Act. The guidance in the circular relates to the preceding 1971 Act which was further amended in 1986.

3.4 Circular 8/87 states in paragraph 72 the following,

"...any object or structure fixed to a building or forming part of the land comprised within the curtilage of the building is treated as part of the building (section 54[9]) unless it is a free standing building, object or structure that has been erected since the 1st July 1948 (see paragraph 73)".

- 3.5 The Act and the guidance contained in circular 8/87 are all encompassing in that they include any work that affects the building's character of special architectural or historic interest. It is sometimes argued that the listed building description identifies the important architectural elements and those not listed are by inference not important and do not need protection. This is certainly not the case.
- 3.6 In circular 8/87 paragraph 34 it states that:
- "Lists are compiled by the Secretary of State by reference to national criteria on which he is advised by the Commission (see paragraph 14 in Appendix 1)."**
- 3.7 If we examine Appendix I it is clear that the obligation is on the Secretary of State to compile lists of buildings not descriptions. The Appendix describes how buildings are selected and the different types of classification. No mention is made of the importance or lack of importance of the listing description. It is obvious that the listing description is there to assist with identification of the building so that it can be easily recognised.
- 3.8 By their very nature historic buildings contain a wealth of historic features that need to be retained, (as is indicated in the features listed in Appendix IV of the circular), and it would be neither practical nor sensible to provide a comprehensive description of every historic feature for every one of the 443,000 listed buildings in England. The all-encompassing nature of the controls contained within the legislation makes it unnecessary.

- 3.9 For the purposes of the Act all that is required to be established is that the objects either form part of the building or have been fixed to it before 1948. This is certainly the case here for the reasons given below.
- 3.10 If we apply the test mentioned above it is clear that in the case of all three objects, namely the statue, the well and the tiles in the fireplaces, they are all physically fixed to the building with a reasonable degree of physical annexation together with indications that the annexation was carried out with the intention of making the object an integral part of the land or building. In the case of the statue and tiles it relates to the building and in the case of the well it relates to the Court Yard or land within the curtilage of the building. I discuss the nature of the fixing of the well below.
- 3.11 I am of the opinion that all the above mentioned objects are without doubt fixtures. It is also clear that all the objects come within the ambit of the above mentioned legislation as they are either an integral part of the listed building or have been attached to it and form part of the land since before the 1st July 1948.
- 3.12 It now only remains for us to establish whether the removal of those objects would constitute an alteration to the building which would affect its character as a building of special architectural historic interest. Some indication is normally provided by the list description of the building, which forms part of the process of listing of buildings of special architectural historic interest. The 1990 Act requires

the Secretary of State to compile lists of such buildings. In section 1 paragraph 3 it states that:

" In considering whether to include a building in a list compiled or approved under this section, the Secretary of State may take into account not only the building itself but also -

(a) any respect in which it's exterior contributes to the architectural or historic interest of any group of buildings of which it forms a part; and

(b) the desirability of preserving on the ground of it's architectural or historic interest any feature of the building consisting of a man-made object or structure fixed to the building or forming part of the land and comprised within the curtilage of the building."

3.13 Contained within the listing description is a description of the statue of St George. It is clear that the statue forms part of the special historic interest of the building and could not be removed without listed building consent.

3.14 The well and the tiles to the fireplaces, though only indirectly mentioned in the list description are, in my opinion, a significant part of the historic and architectural importance of the building. The guidance contained in circular 8/87 identify those type of features as contributing to the architectural interest of historic buildings.

- 3.15 It could not be argued, in my opinion, that those features, though identified as ones that contribute to the character of a historic building in the government guidance, are in this instance of such little significance that their loss would not harm the character of the building. The importance and quality of those features has been recognised and acknowledged for a considerable length of time as can be seen in the description of the building by Mr Shaw Jeffrey which was written as far back as 1945 and mentioned in the listing description.
- 3.16 In conclusion I believe that the statue of St George, the well-head and the tiles all come within the ambit of the 1990 Act and are either specifically mentioned in the listing or would be considered fixtures as indicated in government guidance on the interpretation of fixtures as provided in circular 8/87. Listed building consent would therefore be needed for their removal.
- 3.17 It is arguable that the well-head is not directly fixed to the listed building and is therefore outside the scope of the legislation and the advice contained in Circular 8 / 87. To make an accurate assessment of whether or not the well-head is a fixture for the purposes of the legislation is very difficult. The well-head is certainly fixed to the ground. It is held in place by a fake wrought iron bucket-lifting apparatus with its iron stanchion fixed directly to the York stone paving which butts up to the well and to the house. On the basis of that fixing I believe can be considered a “fixture”.

- 3.18 Furthermore the well-head can be described “as a feature of the building consisting of a man-made object.....forming part of the land and comprised within the curtilage of the building” and since it was erected before 1948 it would be protected by the listed building legislation.
- 3.19 As for the statue of St. George and the Dragon it is fixed directly to the outside wall of the building and would need to be physically removed from its purpose made 19th Century stone surround for it to be sold at auction. This could probably be achieved without damaging the sculpture but would certainly require listed building consent.
- 3.20 The tiles are fixed directly into the fireplaces in the various rooms and would need to be removed from their cement backing for them to be sold at auction. Even if this could be done without breaking the tiles, which I do not believe is achievable, listed building consent would be needed for their removal.
- 3.21 In conclusion, it is clear that all the objects described above can be identified by Shaw Jeffrey as being part of the building prior to 1945 and as such cannot be removed without listed building consent.
- 3.22 On the basis that all the objects would need listed building consent, we have to ask ourselves would the local authority and English Heritage, (English Heritage has to be consulted with works to a major listed building such as Grade I and Grade II*

buildings), grant consent for their removal. My experience of dealing with listed buildings and interpretation of the legislation and its supporting advice on its application and leads me to believe that the former owners would not receive listed building consent for the removal of those objects as they could not provide sufficient justification for what would appear to be unnecessary works of demolition and alteration to a listed building. The purpose of those works of demolition and alteration would appear to be only as a means of improving the owners' financial situation which is not considered a suitable justification.

3.23 The removal of fixed objects from a building would not normally have been sanctioned in March 1993 unless it had formed part of an approved scheme for altering the building which necessitated their removal. The circumstances which might give rise to listed building consent being granted for altering the building would normally relate to the objects in question being in danger or the alterations being necessary to maintain the building in beneficial use. Even under those circumstances Circular 8/87 advised in Appendix IV, sub section VI, sentences 7 and 8 that "features of interest should be carefully dismantled and re-set wherever possible".

3.24 Circular 8 / 87 gives guidance on the interpretation of statute. Relevant to the removal of fixtures/chattels at Bagdale Old Hall are the following paragraphs: Paragraph 89 which deals with consideration of proposals to alter or demolish listed buildings states:

“ In considering any application for listed building consent (and also any application for planning permission for development which affects a listed building or its setting) local planning authorities are required to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses (section 56(3)).”

3.25 It is clear that the various chattels/fixtures referred to previously such as the statue, well-head and Delft tiles all contribute to the special architectural and historic interest of this building. They have been identified in the document mentioned in the listing description by Shaw Jeffrey and therefore by extrapolation can be considered to be part of the listing description. All the items listed above would be considered by English Heritage and the local authority as features of special architectural and historic interest.

3.26 Paragraph 92 which deals with consideration of alterations states:
“The alteration of listed buildings requires the greatest skill and care in order to avoid damage to historic structures, to ensure that any additions are in keeping with other parts of the building, and to see that any new external or internal features harmonise with their surroundings. Fixed interior features of interest should be respected and left *in situ* where possible. Their removal could affect the building as a building of architectural or historic interest and in such circumstances, listed building consent would be required before they

could be removed. A digest of technical advice prepared by the Commission is at Appendix IV.”

3.27 Fixed interior features of interest should be respected and left in situ wherever possible. The need to raise funds for the previous owner would not provide sufficient justification for their arbitrary removal.

3.28 Appendix IV, under General Principles Applicable to Alterations, states:

“The list description indicates the quality and value of the buildings included. Alterations may affect the special architectural or historic interest of a listed building and should be kept to a minimum wherever possible. Repair is usually preferable to replacement and the dangers of over-restoration should be guarded against.”

3.29 Appendix IV, under Alterations in Detail, item 9, states:

“Inscriptions, fine old lettering, old shop signs, inn sign boards, date plaques and stones, coats of arms, monograms, fire insurance plaques, commemorative or symbolic carvings and statues in niches are part of the history of a building. These features should never be obscured or obliterated but retained *in situ*. If the works require the removal of an interesting feature it is very desirable that it be re-set in an appropriate position.”

3.30 It is my belief that both the statue of St. George and the Dragon and the well-head would come within the general framework of the objects described above.

3.31 Appendix IV, under Alterations in Detail, VI Interiors, the following points are made.

Item 1 states:

“Interior features of interest should be respected and left *in situ* wherever possible. Staircases, panelling, doors and doorcases, mouldings, decorated ceilings, stucco work, wall paintings of all periods, are part of the listed character of a building and indeed may be the most valuable feature. Whatever the grading, interiors should be inspected even if they are not referred to in the list description.”

3.32 Even if Shaw Jeffrey’s history is excluded from being part of the listed building description, the guidance contained in Circular 8 / 87 makes it quite clear that any omission from the list description does not preclude an object’s importance to the building.

3.33 Item 7 states:

“Good chimney-pieces are part of the decorative history of a building and often central to the design of a room. There is no excuse for their removal if

this is simply because a chimney is redundant. If there absolutely not alternative, then the chimney-piece should be saved for us in another position.”

3.34 The tiled linings to the fireplaces are an integral part of the fireplaces and can no more be removed from them than the brass hoods or the carved timber mantelpieces. The unnecessary removal of a fireplace is specifically restricted because of the importance they contribute to the interiors of listed buildings and this restriction would equally apply to any part of the fireplace that is fixed to it.

3.35 Item 8 states:

“Every care should be taken that no interior feature of interest is unnecessarily removed or inadvertently damaged when a building is standing vacant or is in the process of conversion. If a rebuild is required then interior features of note should be carefully dismantled and re-set wherever possible.”

3.36 Even if consent for its removal could be obtained, the Guidance makes it clear that all objects should be re-used and not disposed of.

3.37 Appendix IV, under Alterations in Detail; Outbuildings, Garden Ornaments and Architecture, item 2 states:

“Gazebos, temples, follies, grottoes, obelisks, park bridges, statues, urns, vases, ice houses, terraces, ha-ha’s, crinkle-crankle walls and boundary walls and gates and gate piers all contribute to the planned landscape and setting. They also may well be architect designed or even important works of art.”

3.38 The well-head was seen by Shaw Jeffrey as making a significant contribution to the building and the importance of the contribution provided by garden ornaments is further reinforced in this section. Its removal would detract from the building and is extremely unlikely to be acceptable to English Heritage or the local authority in respect of such an important historic building.

4.00 CONCLUSIONS

4.1 In conclusion any claims made by a former owner of this property that he might have been able to remove historically and architecturally important objects from the property for sale separately from the property itself should be considered in the light of the following:

4.2 The Tiles

The tiled fireplace surrounds are probably all of the Dutch origin (except for the Victorian hearth), and were installed pre-1914 and can be identified from Shaw Jeffrey’s description of the building which is in turn mentioned in the listed building description. They have been in the building since 1945.

The DoE listing by extrapolation mentions those fireplace and other fittings and provides them with statutory protection against unauthorised removal.

The tiles contribute to the character of the building and their arbitrary removal would not receive listed building consent.

The physical removal of the tiles would be impossible without damaging both the tiles and destroying any value they might have because of the way they have been fixed to the building.

In conclusion none of the tiles mentioned above can be removed without damage which would destroy their intrinsic value.

4.3 The Sculpture

The sculpture of St. George and the Dragon is a fixture and would require listed building consent for its removal. This sculpture is a 19th Century carving and even if permission was given for removal of the statue for its safekeeping for example, a replacement statue would need to be re-carved which would cost more than the sale value of the original object. The removal of the statue for safekeeping would not of itself be a justification for its disposal for financial gain.

4.4 The Well-head

The late Mediaeval style well-head is not authentic but probably comes from Venice. I am of the opinion that the well-head is a fixture. The inclusion of

the well-head in Shaw Jeffrey's history and therefore by implication its inclusion in the listed building description as an item of historic or architectural interest would give it listed building protection. Listed building consent would be needed for its removal. The disposal of the well-head for personal financial gain would not be considered sufficient grounds to issue listed building consent for its removal.

4.5 The Artefacts Generally

It is my view that the artefacts could not be sold off separately. It is also my view that the total value of all the fixtures would add little to the overall value of the property. The building is full of historic fittings which contribute to its attractive appearance but do not necessarily increase its value other than by a nominal amount. It is almost impossible to value the "architectural goodwill" of a building as all historic buildings are by their very nature different.

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