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## Appeal Decision

Site visit made on 12 June 2017

**by Peter Rose BA MRTPI DMS MCMI**

**an Inspector appointed by the Secretary of State for Communities and Local Government**

**Decision date: 29<sup>th</sup> June 2017**

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**Appeal Ref: APP/V5570/Y/17/3169417**

**Flat A 65 Amwell Street, Islington London EC1R 1UR**

- The appeal is made under section 20 of the Planning (Listed Buildings and Conservation Areas) Act 1990 against a refusal to grant listed building consent.
  - The appeal is made by Mr Wygas against the decision of the Council of the London Borough of Islington.
  - The application Ref: P2016/4360/LBC, dated 4 November 2016, was refused by notice dated 22 December 2016.
  - The works proposed are retrospective application for insertion of second floor ensuite bathroom, removal of paintwork on staircase handrail, installation of 2no. smoke alarms, replacement of distribution board and fitted wardrobe in front bedroom.
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### Decision

1. The appeal is allowed and listed building consent is granted for insertion of second floor ensuite bathroom, removal of paintwork on staircase handrail, installation of 2no. smoke alarms, replacement of distribution board and fitted wardrobe in front bedroom at Flat A 65 Amwell Street, Islington London EC1R 1UR in accordance with the terms of the application Ref: P2016/4360/LBC, dated 4 November 2016, and subject to the following conditions:
  - 1) The works forming the subject of this consent shall accord with the details shown on drawings Ref: 001 and 300.
  - 2) Within 3 months from the date of this consent, full details of a scheme for reinstatement of a timber finish to the handrail of the main staircase handrail shall be submitted to and be approved in writing by the Local Planning Authority, and such works shall be undertaken in accordance with the approved details and in accordance with an agreed programme.

### Procedural matter

2. The appellant refers to a retrospective application, and I noted from my inspection that works had been undertaken. Section 8(3) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) allows for listed building consent to be sought even though works have been completed. In such circumstances, however, a consent would not be retrospective but would be authorised only from the date of any consent. I consider the appeal on that basis.
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## **Main issue**

3. The main issue is the effect of the works upon the special architectural and historic interest of No 57-65 (odd) Amwell Street and attached railings, a Grade II listed building and, in particular, whether the works preserve the listed building or its setting or any features of special architectural or historic interest which it possesses.

## **Reasons**

### *Works to the listed building*

4. The appeal site comprises the upper floors of an end of terrace, three-storey building, and forms part of the New River Conservation Area.
5. The significance of the appeal site as part of a building of special architectural and historic interest relates, amongst other things, to its contribution as an elegant early nineteenth century building set within a wider terrace of similarly distinguished properties. The terrace is a distinct and impressive building outwardly displaying a wealth of architectural and historic features, including mansard roofs and dormers, stock brick elevations, stucco dressings, original iron railings and other detailing.
6. The internal form and fabric of the appeal site also contribute to its significance. Internally, the appeal site retains a traditional plan form at second floor level involving a front and rear room each accessed from a stair compartment. The building has been generally modernised and has areas of modern wall and ceiling finishes and, at second floor level, many original features appear to have been removed. Some features of historic interest survive elsewhere, and there are traces of authentic joinery throughout. The building retains large traditional windows to the main frontage at first and second floor levels, and these are significant features in defining the internal character of the front rooms.
7. The application involves creation of a bathroom within the main second floor bedroom at the front of the dwelling. The Council raises no objection to the principle of such a room<sup>1</sup>. Rather, the Council's concern is that the works do not minimise their impact upon the listed building, and that a more sensitive design should instead be pursued. In particular, the Council is concerned that the works obscure much of the remaining central chimney breast in the room and that the partitions would be ceiling height.
8. The chimney breast would have served originally as a focal point for the room. Although only part remains directly exposed outside the new partition extending perpendicular from the chimney breast, that partition is of an open shelved design thereby affording views into the bathroom, and including of the party wall. Whilst the second partition is of full height, its presence is further punctuated by the presence of a door opening and facing towards the chimney breast.
9. I find these features make for a relatively open design to the enclosure and, combined with its limited extent and relatively remote corner position, so enable the presence of the chimney to be identified from within the wider bedroom and allow for views between the bathroom and the room as a whole.

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<sup>1</sup> See pre-application advice dated 22 August 2016

Together with a consistent pattern of decoration, they contribute to the creation of a feature appearing incidental to, and set within, the bedroom itself, rather than as a totally enclosed separate space.

10. Whilst the Council raises issues around the shape of the remaining bedroom and an inability to appreciate the chimney breast placed symmetrically in the centre of the party wall, I remain unconvinced that the significance of the room is harmed in those regards. The scheme would not prevent the original plan form of the main room being read and appreciated as an entity, and nor does it unduly detract from the remaining sense of proportion and focus directly attributable to the chimney breast. The historic layout and features of the room would remain legible, and the important internal contribution of the two main front windows would be unaffected. Surviving historic fabric also appears not to have been harmed or significantly removed by the scheme.
11. English Heritage's London terrace houses 1660-1860 A guide to alterations and extensions February 1996 (the English Heritage Guide) advised that the domestic plan form of London terrace houses is an important part of their character and special interest. As a general rule, the character, proportion, and integrity of the principal rooms at ground and first floor levels, together with the primary and secondary staircase compartments, should be preserved. Normally, such areas should not be sub-divided but elsewhere, and by implication inclusive of a second floor, a greater degree of flexibility may be possible, but the original plan form and features should be discernible, and any alterations should be reversible. I find the appeal scheme to generally accord with these principles.

*References to works elsewhere*

12. The appellant draws comparison to similar works authorised to other dwellings nearby.
13. At No 50, which forms part of a further listed group of buildings in Amwell Street, a scheme was allowed at appeal in 2012<sup>2</sup> where an Inspector had found that no harm would be caused to the plan form or fabric of the building through reconfiguration to create a bathroom at second floor level. The layout of a further consented scheme to that property was subsequently considered less invasive to the plan form and fabric than the allowed appeal scheme but would abut a chimney, and involve other changes in layout<sup>3</sup>.
14. In relation to No 50, whilst the partition would cut across the chimney breast, the Council advises that a condition was attached to the subsequent 2013 permission requiring the bathroom to be of a pod design such that it would be clearly distinguishable as a modern intervention and enable the entirety of the space to be read. This would not involve a full height enclosure and, whilst the partition wall would abut the chimney, only a minor proportion of it would be concealed by the bathroom.
15. A second example of a bathroom introduced to the front room of a listed building is at No. 37. The application appears to date from 2008 but full details of the background to that scheme are not available<sup>4</sup>. At No 37 a proposed bathroom is shown that cuts across a chimney breast and has a projection into

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<sup>2</sup> Local planning authority Ref: P111640

<sup>3</sup> Local planning authority Ref: P/2013/3812/LBC

<sup>4</sup> Local planning authority Ref: P081493

the front and rear rooms either side of the spine wall. This would also appear to have a far more substantial intervention into the historic plan form of the building than that subject to this appeal. Two further cases are quoted at No 33 and No 46A, but relevant dates and other details are not provided.

16. The Council advises that the cited examples of new second floor bathrooms at Nos. 33, 37, and 46A all pre-date paragraph 2.41 of Islington's Local Plan: Development Management Policies June 2013 (the Local Plan) which now places greater emphasis upon the importance of plan form to the significance of listed buildings. The decisions also appear to pre-date the National Planning Policy Framework (the Framework). Even so, section 16 of the Act places a duty upon the decision-maker, in considering applications for listed building consent, to have special regard to the desirability of preserving the listed building. This statutory duty pre-dated 2008, although the relevance of its timing to No 33 and No 46A remains unclear.
17. The Council, in turn, draws attention to dismissed appeals relating to works at No 12 St Paul's Road, London N1 2QN<sup>5</sup>. I note the case found that a partition wall abutting a second floor chimney breast would disrupt the proportions of a room and adversely affect appreciation of the chimney breast.

### **Other matters**

18. The submission confirms the appellant's intention to remove paintwork on the main staircase handrail, and thereby to re-establish its original timber finish.
19. The application also refers to other minor works, including replacement of a downstairs distribution board and installation of a fitted wardrobe in the front bedroom. The Council considers these works to be non-contentious and raises no objection, and I agree.
20. I have noted reference made to pre-application discussions, and to alternative possibilities for design of the bathroom with regards to location and height of partition walls as suggested by the Council.
21. I have also noted subsequent consents for works in relation to soil pipes.

### **Conclusions**

22. The courts have highlighted the importance of consistency in decision-making<sup>6</sup> and, accordingly, I have regard to the similarities of those cases cited by the appellant, and to the contrasts and distinctions as highlighted by the Council. The planning circumstances of each individual site and of each proposed scheme will be different from others, and each proposal and site must be considered with reference to its own particular merits. Whilst I find some commonality in the cases cited, each case is fact and context sensitive, and I find no case in itself to be determinative in my assessment.
23. More particularly, I find the appeal scheme would not harm the historic plan layout of the appeal site, would not involve an unacceptable loss of historic fabric or a necessarily irreversible alteration and, whilst partly obscuring the chimney breast, would still enable it to be appreciated as a discernible feature of the bedroom. The specific design and configuration of the bathroom in this

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<sup>5</sup> Appeal decisions Ref: APP/V5570/W/15/3137457 and APP/V5570/Y/15/3137464 dated 30 June 2016

<sup>6</sup> For example, *North Wiltshire DC v Secretary of State for the Environment* 1993

instance would create the character of a feature subordinate to the surrounding room and the wider legibility of this particular space would not be harmed.

24. In accordance with the duty arising under section 16 of the Act, I therefore find that the special architectural and historic interest of the Grade II listed building at No 57-65 (odd) Amwell Street and attached railings would not be harmed by the proposed scheme and that the significance of the heritage asset would thereby be preserved.
25. Further, the scheme would accord with Policy DM2.3 of the Local Plan, with Policy CS9 of Islington's Core Strategy February 2011, and with Policy 7.8 of the Mayor of London's London Plan March 2016 (as amended). These seek, amongst other things, to ensure that the significance of listed buildings be conserved and enhanced.
26. I consider these development plan policies to be broadly consistent with the Framework which recognises that heritage assets are an irreplaceable resource and requires them to be conserved in a manner appropriate to their significance<sup>7</sup>. The Framework further states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation<sup>8</sup>.
27. For the above reasons, the appeal is allowed subject to the conditions specified.

### **Conditions**

28. I have had regard to the advice set out in both the government's Planning Practice Guidance (the Guidance) and in the Framework in terms of both the need for individual conditions and of appropriate wording.
29. As works have been implemented, I note that the Council does not consider any conditions to be necessary. Nonetheless, I find a condition is required specifying the relevant drawings in order to provide certainty, and also that a condition should be imposed to ensure an appropriate scheme for reinstatement of the main staircase handrail.

*Peter Rose*  
INSPECTOR

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<sup>7</sup> Paragraph 126

<sup>8</sup> Paragraph 132