



Appeal Decision

Site visit made on 1 August 2022

by Elizabeth Pleasant BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26 August 2022

Appeal Ref: APP/N5090/F/21/3285754

Land at 14 Wood Street, Barnet EN5 4BW

- The appeal is made under section 39 of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended by the Planning and Compensation Act 1991.
- The appeal is made by Mr Nicholas Osborn against a listed building enforcement notice issued by the Council of the London Borough of Barnet.
- The enforcement notice was issued on 30 September 2021.
- The contravention of listed building control alleged in the notice is: Without listed building consent, internal works to incorporate an additional bathroom to the first floor, as outlined in red on the attached plan.
- The requirements of the notice are:
 - 1 Internally restore the property back into the state in which it was prior to the breach, as per the "First floor plan – As existing" outlined in blue from drawing number D70 of the listed building consent reference 16/4273/LBC, dated 05.08.2016, including the removal of the room labelled "Bathroom 2", and the associated partition walls and doors.
 - 2 Use of lime based plaster or similar (not cement) to render the walls and finish with a matching paint.
 - 3 Permanently remove all constituent materials resulting from the works in 1. above from the property.
- The period for compliance with the requirements is 3 Months.
- The appeal is made on the grounds set out in section 39(1) (c) (e) (h) and (j) of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended.

Decision

1. The appeal is allowed, and the listed building enforcement notice is quashed. Listed building consent is granted for the retention of internal works to incorporate an additional bathroom to the first floor at 14 Wood Street, Barnet EN5 4BW.

Appeal on ground (c)

2. To be successful on this ground of appeal it must be successfully argued that the works carried out (internal works to incorporate an additional bathroom to the first floor) do not constitute a contravention of sections 7 and 8 of the Planning (Listed Buildings and Conservation Areas) Act 1990, as amended (the Act). Section 7 of the Act states that *'Subject to the following provisions of this Act, no person shall execute or cause to be executed any works for the 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.' Section 8 states that *'Works for the alteration or extension of a listed building are authorised if – (a) written consent for their execution has been granted by the local planning authority or the Secretary of State; and (b) they are executed in accordance with the terms of the consent and any conditions attached to it.'*

3. There is no dispute that the works the subject of the notice have had an effect on its character as a building of special architectural or historic interest, irrespective of whether the works are considered to be harmful to the building. The question is whether those works have been authorised. It is the appellant's view that the works were granted listed building consent by the local planning authority in 2016 and carried out in accordance with the conditions attached to that consent. In support of his appeal case the appellant has submitted a legal opinion.¹
4. It is established case law that a planning permission should stand by itself, and the meaning should be clear within the four corners of the document. I see no reason why a listed building consent should not be interpreted in the same way. In this case listed building consent was granted for works at the appeal property, on 5 August 2016. The decision notice is clear and states that it, *'Approves listed building consent for: Replacement roof finish to the single storey rear roof, as referred to in your application and shown on the accompanying plan(s): subject to the following conditions:'*² Condition 1 requires the development hereby permitted to be carried out in accordance with the following plans: Site Location Plan, D.70 and Design, Access & Heritage Statement (2016 Consent).
5. It is the appellant's case that the works that have been undertaken to install the new bathroom alleged in the notice were shown on drawing D.70 which was the approved drawing specified in Condition 1 of the 2016 consent. Consequently, the appellant believes the new bathroom, which has been constructed in accordance with the details shown on that drawing, is authorised.
6. I have had regard to the case law set out in the legal opinion obtained by the appellant. In this case the works authorised are clearly defined and specified in the decision notice: *'Replacement roof finish to the single storey rear roof.'* There is no mention in the decision notice of authorisation of any works to the first floor to incorporate a new bathroom. Although I appreciate that drawing D.70 includes details of the works to incorporate a bathroom, the decision notice is clear that it is the authorised works that need to be carried out in accordance with the plans.
7. Section 72 (1) of the Town and Country Planning Act, 1990, as amended deals with conditions on grants of planning permission. It states: *'Without prejudice to the generality of section 70 (1), conditions may be imposed on the grant of planning permission under that section – (a) for regulating the development or use of any land under the control of the applicant (whether or not it is land in respect of which the application was made) or requiring the carrying out of works on any such land, so far as appears to the local planning authority to be*

¹ Legal Opinion, Killian Garvey, Kings Chambers, dated 17 June 2021.

² Local Planning Authority Ref: 16/4273/LBC

expedient for the purposes of or in connection with the development authorised by the permission³; (b) for requiring the removal of any building or works.....’.

8. In this case the works authorised by the permission are the replacement roof finish to the single storey rear roof. Condition 1 provided that those authorised works only were carried out in accordance with drawing D.70. I understand that in the case of *I’m Your Man*⁴ it was established that any restriction on a planning permission must be imposed by way of condition, rather than through the description of the development. However, in this case the works authorised by the local planning authority and specified in the listed building consent were solely in relation to works to the single storey rear roof. No works were authorised in relation to the incorporation of a first floor bathroom. Thus, there was no requirement for those works to be restricted by condition. Consideration of this case therefore has limited weight in this appeal.
9. For the reason given above I conclude that the internal works to incorporate an additional bathroom to the first floor are not authorised, and a contravention of section 9(1) of the Act has thus occurred. The appeal on ground (c) therefore fails.

10. Appeal on ground (e)

11. Section 16(2) of the Act requires special regard to be had to the desirability of preserving the listed building or its setting or any features of special architectural or historic interest which it possesses. Section 72(1) of the Act requires special attention to be paid to the desirability of preserving or enhancing the character or appearance of the conservation area. The National Planning Policy Framework (the Framework) states that when considering the impact of a development on the significance of a designated heritage asset, great weight should be given to the asset’s conservation.
12. The appeal property is a grade II listed two-storey dwelling. It was first listed in 1957 and according to the list description, which describes the property as 14 and 16 Wood Street, it is early C18. However, from the evidence before me, including the Appellant’s Heritage Appeal Statement (HAS)⁵ and observations on my site visit, the building originates from the C15/16, although it has subsequently been altered significantly, including a new front elevation in the C18.
13. In my opinion, the significance of the building as a heritage asset is derived both from its historic interest as part of a late medieval planned development and from its interest as a hybrid building. The current Georgian character and appearance of the property provides evidence of how buildings are altered and adapted over time. Its original timber frame and fine Georgian façade, including timber sash windows contribute to its special architectural and historic interest.
14. The appeal property is situated within Wood Street Conservation Area (CA). It occupies a prominent position fronting towards Wood Street and close to the Church of St John the Baptist which is also a grade II listed building. The CA retains a high number of listed buildings. The medieval and later street pattern with cohesive street frontages, attractive open and closed spaces, and the

³ Under lining is my emphasis.

⁴ *I’m Your Man Ltd v Secretary of State for the Environment* [1999] 77 P&CR 251

⁵ Heritage Appeal Statement, Ref 7105, dated October 2021, HCUK Group

many trees and landscape features provide a high quality environment. This environment, including the many individual historic buildings all contribute to the special character and appearance of the CA.

15. The main issue on ground (e) is the effect of the works on the character, appearance and integrity of this listed building and on its features of historic interest.
16. The HAS provides a detailed account and understanding of the historic development of the appeal property. It originated as a medieval timber framed building and was significantly reworked, including a new "classical" façade, during the C18. The upgraded and reordered interior would have facilitated its occupation during the Georgian period. It is also understood that the property was damaged during the second world war and suffered fire damage to the first floor and roof in 1977. Consequently, whilst there remains clear evidence of the original building with its exposed timber frame, the rear and front walls and the interior of the building have been significantly altered through multiple refurbishments during the past three centuries.
17. The first floor layout of the property, as it existed prior to the unauthorised bathroom works, is shown on the existing floor plan, drawing D.70. In addition, it can be seen from the appellant's drawing which shows the works undertaken to the premises following the fire, that the first floor layout of the property has been altered and renovated significantly over the last half a century. Amongst other alterations, new stud partition walls had been constructed to provide separate access into bedrooms 2 and 3. From the evidence before me, and observations on my site visit, the layout of the first floor of the property, prior to the unauthorised works, made little contribution to the special architectural merit or historic interest of this heritage asset.
18. The works involved to form the new bathroom include a new stud partition to separate it from bedroom 2. In addition, the service pipes to the bathroom extend into bedroom 3 and have been boxed in. Those works have not had an impact on the historic fabric of the building, although they have resulted in a further change to the first floor layout. However, as set out above, the first floor layout of the building has been altered numerous times during the last few centuries and the further modification of contemporary stud partitioning, including the boxed services, do not impact on the special character and historic interest of this building.
19. I recognise that the dog-leg partition in bedroom 2 has some impact on the visual appreciation of the fireplace in this bedroom. However, neither the fireplace nor its surround have been physically altered, nor is this fireplace any longer in use. The fireplace itself does not have any special architectural merit, and this feature, which is of archaeological interest, has not been lost through the works the subject of this appeal.
20. The evidential and aesthetic value of the original medieval building and Georgian architectural features remain, and the works undertaken do not harm the special interest/significance of the listed building. In addition, as the works are internal, they preserve the character and appearance of the CA.

Conclusion

21. I conclude that the works preserve the listed building and the character and appearance of the CA. The requirements of the Act are thus satisfied and the Framework insofar as relevant.

Overall Conclusion

22. For the reasons given above, I conclude that whilst the appeal on ground (c) fails, the appeal on ground (e) succeeds. The appeal on grounds (h) and (j) do not therefore fall to be considered.

Elizabeth Pleasant

INSPECTOR