



Appeal Decisions

Site visit made on 26 February 2024

by Paul Freer BA (Hons) LLM PhD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 8 July 2024

Appeal A Ref: APP/E5330/W/22/3303148

Trafalgar Tavern, Park Row, Greenwich, London SE10 9NW

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Trafalgar Tavern Lease Limited against the Royal Borough of Greenwich Council
 - The application Ref: 22/0863/F, is dated 9 March 2022.
 - The development proposed is described as a traditional Glazed Canopy to existing external seating area for a 5-year period.
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Appeal Ref B: APP/E5330/Y/22/3303147

Trafalgar Tavern, Park Row, Greenwich, London SE10 9NW

- The appeal is made under section 20 of the Planning (Listed Buildings and Conservation Areas) Act 1990 by the Planning and Compensation Act 1991 against a failure to give notice within the prescribed period of a decision on an application for Listed Building Consent.
 - The appeal is made by Trafalgar Tavern Lease Limited against the Royal Borough of Greenwich Council.
 - The application Ref: 22/1171/L, is dated 9 March 2022.
 - The works proposed are described as a traditional Glazed Canopy to existing external seating area for a 5-year period.
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Decisions

1. Appeal A is dismissed and planning permission is refused for a traditional Glazed Canopy to existing external seating area for a 5-year period at Trafalgar Tavern, Park Row, Greenwich, London SE10 9NW.
2. Appeal B is dismissed and Listed Building Consent is refused for a traditional Glazed Canopy to existing external seating area for a 5-year period at Trafalgar Tavern, Park Row, Greenwich, London SE10 9NW.

Procedural Matters

3. The appellant contends that the glazed canopy proposed is technically movable and of a type that is generally considered to be a reversible change. Furthermore, the appellant claims that the glazed canopy would not actually be fixed to the listed building.
4. I am not satisfied that this is the case. In addition to the size and scale of the proposed structure, which would itself make moving it problematic, the

manufacturers drawing of the Proposed Front Entrance Canopy Plan View¹ appears to show the canopy being attached to the listed building in at least two places: to the existing porch, and close to the northern end of the front elevation of the Trafalgar Tavern. The manufacturers drawing of the Proposed Front Entrance Canopy Elevations appears to show one of the purlins directly abutting the wall of the listed building with a notation indicating lead flashing to the existing structure².

5. These drawings indicate that the proposed glazed canopy is neither designed nor intended to be movable. This is confirmed in the Supporting Statement submitted with the applications for planning permission and Listed Building Consent, which describes the glazed canopy as being 'fixed' and 'robust'.
6. This leads the Council to the view that the glazed canopy is not intended to be temporary. However, I recognise that the glazed canopy could be dismantled in its entirety and completely removed at the end of the temporary five-year period sought by the appellant. A condition to that effect could also be imposed on any permission/consent granted. It is on that basis that I have determined these appeals.

Reasons

7. The Trafalgar Tavern is a Grade II Listed Building within the Greenwich Park Conservation Area and the Maritime Greenwich World Heritage Site (WHS). The south elevation of the Trafalgar Tavern fronts onto Crane Street, the eastern section of which is within the East Greenwich Conservation Area, albeit the proposed development and works are only within the Greenwich Park Conservation Area. The site also adjoins the grounds of the Old Royal Naval College (ORNC), a Grade I listed building and a Scheduled Monument.
8. In determining these appeals, in accordance with sections 16(2), 66(1) and 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act), I have had special regard to the desirability of preserving the buildings or their setting or any features of special architectural or historic interest which they possess and paid special attention to the desirability of preserving or enhancing the character or appearance of the conservation area. Additionally, in line with paragraph 205 of the National Planning Policy Framework (the Framework), I have given 'great weight' to the assets' conservation. The more important the asset, the greater the weight that I attach to it.

Special interest and significance: listed buildings

9. The List Description indicates that the appeal property was constructed in 1830³. The building comprises three storeys with, on the elevation fronting the River Thames, prominent bay features resting on the retaining wall to river below. The principal finish is stucco. The building features, amongst other things, columns and pilasters of various styles, a 2-column Ionic screen supporting entablature at higher level than parapet, and a wrought iron bow front balcony.
10. The special interest and significance of this designated heritage asset derives, in part, from its clear nautical association and from being the work of a well-

¹ Drawing No 01173 / G [1] Rev P4

² Drawing No 1173 / G [2] Rev P4

³ Statutory Address: The Trafalgar Tavern, Park Row SE10 List Entry Number: 1078950

known architect, Joseph Kay, who also designed Greenwich Hospital. The historic and architectural interest also extends to the fabric of the building.

11. But it also derives in part from its location on a prominent and exposed position on a knuckle of the River Thames, and its location in relation to other listed buildings within the Maritime Greenwich World Heritage Site. The sense of openness of this location, including views of and from the River Thames, provides the setting of the listed building and those nearby. This setting is an important component to the significance of the Trafalgar Tavern as a designated heritage asset.
12. The evidence before me in relation to the ORNC is limited. However, on the evidence that is before me, I consider that the special interest and significance of the ORNC as a Grade I listed building derives from its exceptional historical and architectural interest, in particular as an example of the work of esteemed architect Sir Christopher Wren. The setting of that listed building fronting the River Thames, with all the historical associations of that relationship, forms an important part of the significance of that designated heritage asset.

Special interest and significance: conservation area

13. The significance of the Greenwich Park Conservation Area as a whole largely derives from the collection of nationally important buildings within it, including the ORNC, the National Maritime Museum and the Royal Observatory. These buildings are of exceptional architectural and historical interest and are set amidst the open space of Greenwich Park. The conservation area includes some of London's most defining views, including the iconic view of Queen's House through the ORNC, this being part of the symmetry of the buildings arranged around the 'Grand Axis'. The spacious and disciplined forms of the institutional buildings contrast markedly with the intimacy of the streets on either side.
14. In relation to these appeals, by virtue of its historic and architectural integrity, the Trafalgar Tavern positively contributes to the character and appearance of the Greenwich Park Conservation Area as a whole and thereby to its significance as a designated heritage asset. In this respect, the Trafalgar Tavern is one of the principal buildings in this conservation area⁴.

Special interest and significance: Maritime Greenwich World Heritage Site

15. The Masterplan for the WHS identifies its Outstanding Universal Value (OUV) as being a number of key attributes that together help tell the story of Britain at sea, and of world time-keeping, navigation and exploration. The key attributes of the WHS include architecture, the masterplan of buildings and designed landscape, The Grand Axis and the relationship with the River Thames. The WHS is a designated heritage asset of the highest significance.

Appeal A

16. The main issues are:

⁴ Specifically identified as such in the Greenwich Park Conservation Area Appraisal

- whether the development would preserve a Grade II listed building, namely the Trafalgar Tavern, Park Row, Greenwich SE10 9NW, or its setting or any features of special architectural or historic interest which it possesses
- whether the development would preserve or enhance the character or appearance of the Greenwich Park Conservation Area
- the effect on the Outstanding Universal Value of the WHS
- whether the proposed glazed canopy and supporting posts would prejudice the safe and unrestricted access for vehicles, pedestrian and cyclists.

Listed buildings

17. The proposed glazed canopy would be a substantial structure. It would extend across practically the entire width of the West elevation of the Trafalgar Tavern. The depth would be some 7.1m measured from the front wall of the Trafalgar Tavern⁵. The maximum height would be some 3.6m⁶.
18. The proposed glazed canopy would be predominantly open. The open supporting structure would be visually permeable albeit the integral signage over the central span of the west elevation and at both end elevations would significantly reduce visual permeability at that level.
19. The West elevation of the Trafalgar Tavern is decidedly asymmetric. The centrally located porch is a prominent feature of this elevation and sits below two vertically aligned windows of decreasing size. The remaining fenestration on this elevation is concentrated to the south of this porch and these windows. This includes the sole window in this elevation at ground floor level. To the north of the porch and the vertically aligned windows the northern half of the West elevation is blank. It follows that the proposed glazed canopy would not, as the Council suggest, disrupt the symmetry of the building.
20. Nevertheless, by reason of its size, forward projection and the bulk of the roof/integral signage, the proposed glazed canopy would not be subservient to the host property. It would dominate the west elevation of this listed building. The presence of the proposed glazed canopy would distract from the appreciation of the front porch and the sole ground floor window in this elevation. The prominent front porch in particular is an important feature of the West elevation of the Trafalgar Tavern. The partial obscuring of these features would reduce the appreciation of this elevation as a whole and would have an adverse effect on the building's historic integrity.
21. The Trafalgar Tavern is sited in a prominent position on a knuckle of the River Thames. The setting of this public house enjoys a sense of openness, with unobstructed and panoramic views of the river. This setting is an important component to the significance of the Trafalgar Tavern as a designated heritage asset.
22. By reason of its size, height, the extent of its forward projection beyond the existing flank wall of the Trafalgar Tavern, and the bulk of the roof/integral signage, the proposed glazed canopy would significantly erode the openness of this location. This would be apparent both in views from the north looking towards Park Row but also in views from Park Row towards the River Thames. This would interrupt, and erode, the openness of the setting of this listed building. Consequently, the development would affect how the designated

⁵ Drawing No 1173 / G [2] Rev P4.

⁶ Drawing No. 0690/303.

heritage asset is experienced and the ability to appreciate its significance. Because openness is such an important component of that setting, the erosion of the openness would be harmful to the significance of the heritage asset. This would not preserve the setting of the listed building and would fundamentally harm its significance.

23. In reaching that conclusion, I recognise that a planning permission granted in 2004 enables tables and chairs to be placed in the area immediately adjacent to the Trafalgar Tavern (i.e: the area that would be covered by the proposed glazed canopy)⁷. I also recognise that parasols may be erected in connection with this seating. In addition, there are railings with planters atop that partly enclose this area. All of these features, both individually and collectively, to some extent erode the existing openness in this location.
24. However, as the Council points out, the 2004 permission only granted the placing of tables and chairs during specific times of the day and year, with the specific aim to retain that generally spacious context. By contrast, the proposed glazed canopy would cause harm to the designated heritage asset and its setting all year round for the duration of its presence on the building.
25. Furthermore, those features of the 2004 permission all occur at a relatively low level. By contrast, the loss of openness resulting from the proposed glazed canopy would occur mostly at a higher level (the glazing itself, the supporting structure for the roof and the integral signage). Moreover, the forward projection of the proposed glazed canopy would result in this loss of openness occurring across the entirety of the existing seating area.
26. The resultant loss of openness would therefore be of an altogether much greater magnitude than resulting from the existing furniture. Consequently, the relatively lesser loss of openness resulting from the existing seating area (whilst still harmful), would not justify the even greater loss of openness that would result from the proposed glazed canopy. Rather, the latter would exacerbate the loss of openness already occurring at the lower level.
27. The appellant seeks to draw parallels with other developments granted planning permission by the Council and which are in the direct line of sight from the ORNC. These include Greenwich Pier, adjacent to the Cutty Sark and three storey buildings that, in the appellant's view, completely block views of the river from the ORNC.
28. But this completely misses the point. The issue here is whether the proposed development would preserve a specific Grade II listed building, namely the Trafalgar Tavern, or its setting or any features of special architectural or historic interest which it possesses, and how it would affect surrounding designated heritage assets. Other developments, and how they might affect these designated heritage assets, form no part of that consideration.
29. In addition, the application drawings show that the proposed glazed canopy would be directly affixed to the listed building itself⁸. I have not been provided with any technical details as to how the proposed glazed canopy would be affixed to the listed building. In the absence of drawings and/or a detailed description of how the proposed glazed canopy would be affixed to the building,

⁷ Council Reference 04/1611/F

⁸ The Trafalgar Tavern

I am not able to reach an informed conclusion on the effect, if any, on the historic fabric of this listed building.

30. This is particularly important in this case because the proposal is specifically described as being for a temporary period only. The corollary is that, at the end of that temporary period, the expectation is that the glazed canopy would be removed, thereby exposing the damage to the fabric of the listed building caused by affixing it. It is therefore essential that details are provided as to how that damage would be repaired when the glazed canopy is removed at the end of the temporary period. I have not been provided with those details.
31. For these reasons, I consider that the proposed development would harm the significance of this designated heritage asset.

Conservation Area

32. The Trafalgar Tavern is one of the principal buildings in the Greenwich Park Conservation Area. The building and its largely open immediate setting positively reinforce the character and appearance of the Greenwich Park Conservation Area and thus its significance as a designated heritage asset.
33. By reason of its size, height, the extent of its forward projection beyond the existing flank wall of the building, and the bulk of the roof/integral signage, the proposed glazed canopy would significantly erode and disrupt the sense of openness that surrounds the Trafalgar Tavern. Consequently, it would result in some residual and incremental harm to the character and appearance of the Greenwich Park Conservation Area as a whole.

The WHS

34. One of the key attributes of the WHS is its relationship with the River Thames. For the reasons set out above, the proposed glazed canopy would harm the openness of this location at the very interface between the WHS and the River Thames. The openness at this location is an important feature of this interface. The erosion of the openness therefore harms the relationship between the WHS and the River Thames. In altering a key attribute of the asset's OUV it harms its significance.

Whether the proposed glazed canopy and supporting posts would prejudice the safe and unrestricted access for vehicles, pedestrian and cyclists

35. The Council explains that the area to the west and in front of the Trafalgar Tavern is adopted highway. As such, the Council's Highways Team require unrestricted access to maintain the upkeep of this part of the highway.
36. The appellant disputes this, claiming that it is factually incorrect and that this section of the highway has been specifically licenced to the Trafalgar Tavern to use for seating, such that in effect it is no longer highway. However, the appellant has provided no technical or legal evidence to support that. In the absence of that evidence, the appellant's statement remains just unsubstantiated opinion. The Council's evidence in this respect is supported by relevant documentation and is therefore to be preferred.
37. On the application form, the appellant completed Certificate B, confirming that they had given the requisite notice to everyone else who, on the day 21 days

before the date of this application, was the owner of any part of the land or building to which this application relates. For the purposes of Certificate B, an 'owner' is defined as a person with a freehold interest or leasehold interest with at least 7 years to run. I have no reason to believe that this certificate was completed incorrectly.

38. However, as I understand it, the Council are not claiming to be owners of the land: the Council are only indicating that it is adopted highway. There is no reason in principle why privately owned land cannot become adopted highway, provided it is maintained to the appropriate standard. I therefore see no reason why the completed Certificate B is incompatible with the land being adopted highway. This then becomes a private matter between the appellant and the Council to resolve.
39. The Council's Highway Team are responsible for preserving the highway and footpath. The Council's Highway Team consider that the positioning of the canopy and posts would act as an obstacle and prevents unfettered access for maintenance vehicles to the adopted highway.
40. The glazed canopy would be supported by a number of relatively narrow posts that are widely spaced. The Council has not provided any details of the vehicles and/or equipment that the Highway Team employ for the maintenance of the adopted highway. The Council has therefore not substantiated through evidence its claim that the positioning of the canopy and posts would prevent access to the adopted highway for maintenance vehicles or equipment. It follows that there is no evidence to suggest that the presence of the glazed canopy would prejudice the safe and unrestricted access for vehicles, pedestrian and cyclists.
41. I conclude that, on the evidence before me, it has not been shown that the glazed canopy would prejudice the safe and unrestricted access for vehicles, pedestrian and cyclists. I therefore conclude that the development would not conflict with Policies T2 and T5 of the London Plan 2021 or with Policy IM(b) of the Royal Greenwich Local Plan: Core Strategy 2014 (Local Plan). These policies require, amongst other things, that development promotes walking and cycling safety.

Appeal B

42. The main issues are whether the works would:
- preserve a Grade II listed building, namely the Trafalgar Tavern, Park Row, Greenwich SE10 9NW, or its setting or any features of special architectural or historic interest which it possesses.
 - would preserve or enhance the character or appearance of the Greenwich Park Conservation Area.

Listed building

43. All the same considerations set out above in relation to Appeal A as to the effect of the proposed glazed canopy on the Trafalgar Tavern and its setting apply equally to this appeal.

Conservation area

44. For the reasons set out above in relation to Appeal A, the proposed glazed canopy would fail to preserve or enhance the character or appearance of the Greenwich Park Conservation Area as a whole and in doing so would harm the significance of this designated heritage asset.

Appeals A and B: Conclusion on the effects of the development and works to the listed building, the conservation area and the WHS

45. I have concluded that the proposed development and works included as part of Appeals A and B respectively would fail to preserve the Grade II listed building, its setting and any features of special architectural or historic interest which it possesses. The proposed development and works would also fail to preserve the character or appearance of the Greenwich Park Conservation Area, and would adversely affect the OUV of the WHS.
46. On that basis the proposal would fail to meet the requirements of sections, 16(2), 66(1) and 72(1) of the Act and would harm the significance of these designated heritage assets. I give this harm considerable importance and weight in the planning balance. That harm would be intrinsic within the development and/or works and could not be overcome or mitigated through the imposition of conditions.
47. This harm would not result in a total loss of the significance of the listed building. As such, the harm would be less than substantial in terms of the Framework. Similarly, given the nature of the proposal, I consider that the harm to the significance of the Greenwich Park Conservation Area and the WHS would be less than substantial in terms of the Framework. Under such circumstances, paragraph 208 of the Framework advises that this harm should be weighed against the public benefits of the proposal including, where appropriate, securing the asset's optimum viable use.
48. The appellant suggests that the glazed canopy would represent a public benefit insofar as it would enable customers to sit outside in a wider range of weather conditions and therefore more often than at present. The appellant goes on to suggest that more people are choosing to sit outside whenever the weather allows, and that this has been particularly the case since the Coronavirus pandemic. The appellant explains that the proposed glazed canopy would facilitate that and is preferable to sitting under parasols⁹.
49. I recognise that providing an area under cover in which customers of the Trafalgar Tavern could eat and drink in most weather conditions would improve the offer to customers. However, that would primarily be a private benefit to the business with any element of public benefit being extremely limited. The appellant has not attempted to identify, quantify or predict that public benefit.
50. It is reasonable to conclude that there would be economic benefits that would arise from the manufacture and installation of the glazed canopy. However, those benefits have not been identified or quantified through evidence. For that reason, I attach only minimal weight to any potential public benefit that might arise in this respect.

⁹ I take this comment to mean preferable from a customer perspective rather than in a visual sense.

51. It is not suggested by the appellant that the proposed development and works are necessary to secure the optimum viable use of the heritage asset as a public house. The area of seating adjacent to the Trafalgar Tavern could continue to be used by customers on many days within the calendar year on which the 2004 permission allows irrespective of whether the glazed canopy is in situ or not.
52. The appellant refers to the erection of a statue of Lord Nelson in front of the Trafalgar Tavern, commissioned and paid for at the appellant's own expense as a philanthropic gesture, to mark the bicentenary of Nelson's death. The appellant describes this statue as a local landmark. The statue had to be removed for repair following vandalism but has now been reinstated. The appellant advances this as an illustration of their commitment to the Trafalgar Tavern and the area.
53. The erection of this statue was undoubtedly a laudable gesture. I also have no doubt as to the appellant's commitment to the Trafalgar Tavern and the area. However, the erection of that statue is not part of the proposed development and works before me. Neither was the statue erected in association with that proposed development and works. Consequently, the erection of that statue is not a public benefit arising from this proposal that I may take into account in weighing the balance required by the Framework.
54. For all the reasons set out above, I find that the harm to the significance of the designated heritage assets identified in Appeal A and Appeal B would not be outweighed by any public benefits arising from the proposals.
55. In relation to Appeal A, I conclude that the proposed development would fail to preserve a Grade II listed building, or its setting or any of the features of special architectural or historic interest that it possesses, as well as the ORNC as a Grade I listed building. It would also fail to preserve or enhance the character or appearance of the Greenwich Park Conservation Area. The proposed development would also have a harmful effect on the OUV of the WHS. I therefore conclude that the proposed development would be contrary to Policies D3, HC1 and HC2 of the London Plan and Policies DH1 DH3, DH4, DH(h) and DH(i) of the Local Plan. Amongst other things, these policies provide that the heritage assets and settings of Royal Greenwich, including the WHS, will be protected and enhanced.
56. Section 38(6) of the Planning and Compulsory Purchase Act 2004 indicates that if regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be in accordance with the plan unless material considerations indicate otherwise. I have not been advised of any material considerations of sufficient weight to indicate that determination should be made otherwise than in accordance with the development plan.
57. In relation to Appeal B, the proposed works would not meet Policies D3, HC1 and HC2 of the London Plan and Policies DH1 DH3, DH4, DH(h) and DH(i) of the Local Plan.
58. The proposals in both Appeal A and Appeal B would also fail to accord with the provisions within the Framework which seek to conserve and enhance the historic environment.

Other matters

59. Two representations have been received in relation to Appeal A, one in support of the proposal and one in objection to it.
60. The representation in support, from a local resident, considers that the glazed canopy will not detract in any way to the look or feel of that area, and finds no reason at all why there should not be a glass canopy over the existing outside seating area. The letter in objection, from a local Councillor, considers that the glazed canopy would be dominating and unsympathetic to the area, and is not acceptable in principle. I have taken both representations into account but the letter in support of the proposal does not alter my conclusions on the merits of the development and works.
61. The Council has not raised any concerns in its putative reasons for refusal as to the effect of the proposed glazed canopy on the setting of the ORNC as a Grade I listed building. Nonetheless, I have statutory duty to have special regard to the desirability of preserving listed buildings or their setting or any features of special architectural or historic interest which they possess. For that reason, consider that matter briefly here on the basis of the limited evidence that is before me.
62. The proposed glazed canopy would be visible, and indeed prominent, in views of the ORNC from the north, including from the River Thames and the Thames Path. By reason of its size, height and forward projection, the proposed glazed canopy would also be conspicuous in views from within the grounds of the ORNC, in which it would be viewed against the backdrop of the River Thames. In these views, the loss of openness surrounding the Trafalgar Tavern resulting from the proposed glazed canopy would harm the setting of the Grade I listed building and would have a harmful effect on this designated heritage asset.
63. My finding in this respect has neither altered nor influenced my conclusions set out above, which are based on the Council's reasons for refusal and the substantive evidence before me.

Conclusion

64. For the above reasons, I conclude that the appeals should be dismissed and planning permission/Listed Building Consent refused.

Paul Freer
INSPECTOR