



Appeal Decisions

Site visit made on 25 July 2024

by Claire Searson MSc PGDip BSc (Hons) MRTPI IHBC

an Inspector appointed by the Secretary of State

Decision date: 05 August 2024

Appeal A Ref: APP/X5990/W/24/3339778

45 Frith Street, London, W1D 4SD

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Buffo Limited against the decision of City of Westminster Council.
 - The application ref is 23/08066/FULL.
 - The development proposed is the installation of replacement glazed and metal framed canopy over the terrace.
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Appeal B Ref: APP/X5990/Y/24/3339773

45 Frith Street, LONDON, W1D 4SD

- The appeal is made under section 20 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended) against a refusal to grant listed building consent.
 - The appeal is made by Buffo Limited against the decision of City of Westminster Council.
 - The application ref is 23/08067/LBC.
 - The works proposed are the installation of replacement glazed and metal framed canopy over the terrace.
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Decision – Appeal A

1. The appeal is dismissed.

Decision – Appeal B

2. The appeal is dismissed.

Preliminary Matters

3. The two appeals concern the same scheme under different, complementary legislation. I have dealt with both appeals together in my reasoning.
4. While an existing unauthorised canopy is currently in situ, the works as proposed have not been undertaken. I have therefore amended the relevant descriptions to omit reference to 'retrospective.'

Main Issue

5. The main issue for both appeals is the effect of the proposed development and works on the special architectural and historic interest of the Grade II listed building and the character and appearance of the Soho Conservation Area (CA).

Reasons

6. The appeal property forms part of a Grade II listed terrace at Nos 44-48 Frith Street. Dating from 1804-07, the properties are 4-stories in height and 2-bays in width with sash windows. The terrace is brick built in London stock brick, however some properties have been painted. The appeal property is rendered and painted to its frontage, with exposed brick to the rear elevation. The terrace has butterfly roofs, visible from the rear, and raised parapet to the front.
7. To the rear of the appeal property is a first-floor terrace area, installed following approval in 2009 as part of more extensive works at the property following a fire. This area is accessed via a door, which replaced a window opening. The rear area is enclosed by tall brick walls. No 45 is currently operating as a restaurant. Based on the above, the Grade II listed terrace has architectural and historic significance to which the appeal property forms an integral part.
8. The significance of the Soho CA derives from its rich mix of residential and commercial uses. Buildings are of mixed architectural composition because of successive phases of historic development across the whole CA. However, much of the area was rebuilt and redeveloped in the Georgian era and a substantial number of houses of this date survive across the whole CA. There is also unity through the survival of the original street layout and by the narrow building plots giving a characteristic dense urban form of grid like streets and intimate thoroughfares. In particular, Frith Street is a narrow roadway lined with terraced commercial restaurants. The appeal property makes a positive contribution to the CA, as reflected by its Grade II listed status as part of a terrace.
9. The proposed canopy would cover an area used as additional outdoor seating for the restaurant. It would fully cover the courtyard area, positioned at a slight angle from the rear wall of the courtyard, towards the rear wall of No 45. The fanlight above the doorway would be infilled to ensure that the canopy would avoid cutting across this. It would have a metal frame with glazed sliding panels.
10. The former courtyard garden area has effectively been infilled already by the creation of the first-floor terrace. The proposed canopy would further enclose this space, however, the glazing and retractable nature of the proposed canopy would allow for the rear elevation, with its understated and restrained architecture, to be appreciated. I am thus satisfied that this area would remain a discernible rear open space and there would be no harm to the plan form of the property.
11. From the drawings, the canopy would also be a relatively lightweight structure, which would also emphasise the space as an outdoor area. However, there is a lack of clarity in terms of the necessary fixings/rails and guttering, particularly given that it would be angled towards the rear of the building itself. There is also a lack of detail about which parts would retract and how these would look when opened. That said, such details could be the subject to the imposition of conditions to require and approve further details.
12. The primary concern relates to the infilling of the fanlight. From my observations at the site, the timber and glazed doors are a modern insertion

into what looks to be an existing opening, albeit with modern repointing to the header. Even with the insertion of a new header treatment as part of the infill, the loss of the fanlight would change the proportions of this opening. It would have a squat appearance and would give rise to an uncharacteristic and incongruous proportionality.

13. This would be further emphasised as it would also be of a similar height to the windows above, and thus would interfere with the hierarchy of window openings, which reduce in size the higher up the building, commonplace within Georgian buildings. In this regard the development and works would cause harm to the significance of the appeal property as a Grade II listed terrace. Given the use of the building as a restaurant and its accessibility to the public, the works would have a harmful effect upon the character and appearance of the Soho CA.
14. The National Planning Policy Framework requires that great weight be given to the conservation of designated heritage assets. The harm can be quantified as less than substantial harm, but the cited public benefits in terms of the enhanced efficiency and offer of the restaurant use and long-term maintenance of the building would not be sufficient to outweigh the harm to I have identified to the significance of the listed building and to the Soho CA.
15. Overall, taking into account the particular circumstances and having carefully considered all the evidence, I therefore conclude that the works would fail to preserve the special architectural and historic interest of the Grade II listed building and CA. This would be in conflict with Policies 38, 39 and 40 of the Westminster City Plan (2021). In combination, these policies seek to preserve the special interest of listed buildings, preserve or enhance the character and appearance of a CA and not disrupt any uniformity, patterns rhythms or groupings of buildings and spaces which have a positive contribution. The proposal would also conflict with Policy 1 of the Soho Neighbourhood Plan which seeks to protect Soho's heritage and local character.

Conclusion

16. For the reasons above, taking into account all other matters raised, I dismiss both of the appeals.

C Searson

INSPECTOR