



# Appeal Decision

Site visit made on 10 July 2023

**by A Edgington BSc (Hons) MA CMLI**

an Inspector appointed by the Secretary of State

**Decision date: 28 July 2023**

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**Appeal Ref: APP/X5210/Y/22/3308964**

**111 Frognal, LONDON, NW3 6XR**

- 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 Mrs Zoe Chan Eayrs against the decision of London Borough of Camden.
  - The application Ref 2021/3086/L, dated 23 June 2021, was refused by notice dated 14 April 2022.
  - The works proposed are Replacement of unoriginal floated timber floor with solid ground floor at historic level, removal of backfill from part of the pre-existing cellar, structural repairs of the cellar walls and tanking and dry-lining of the cellar (retrospective application).
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## Decision

1. The appeal is dismissed and listed building consent is refused.

## Preliminary Matters

2. The evidence before me, including heritage statements, is concerned primarily with 111 Frognal. However, the listing is for 105, 107, 109 and 111 Frognal Grove (Nos 105-111) and as such I have taken all these now separate buildings into account in my reasoning. This is in line with Section 16(2) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) which requires the decision maker 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.
3. The evidence before me also indicates that the corresponding planning permission has been granted<sup>1</sup>. However, this carries no weight in my reasoning which is based on the evidence before me.
4. Although the evidence before me suggests that there is some doubt as to whether the void beneath the appeal site was a functioning cellar or not, I have primarily used the terminology *cellar* throughout my reasoning.

## Main Issue

5. The main issue is whether the works would preserve the Grade II\* listed building known as Numbers 105-111 (Odd) Frognal Grove including former stable range, or any features of special architectural and/or historic character that they possess.

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<sup>1</sup> Ref: 2021/3803/P

## Reasons

### *Heritage Assets*

#### *Numbers 105 -111 Frognal Grove including former stable range*

6. Frognal Grove and its associated ancillary and outbuildings date from 1741, and were designed and built on an elevated site to the west of Hampstead village by the celebrated Palladian architect Henry Flitcroft, for his own use. The land was purchased from the Earl of Malton, and already contained a manor house and a small farm with associated stabling or cottages. The development reflected the trend for the wealthy to move out of London, and to build large houses in an increasingly desirable village, attracted to the area by the higher land, clean air, spring water and woodland.
7. The original development comprised a residential block and detached outbuildings on a small bluff above the modern day Frognal road. The principal block comprised a square three storey dwelling with attic accommodation under a slated hipped mansard roof and wooden cupola. Its principal elevation presents with a neat geometry of four windows with louvred shutters on the first and second floors, and a brick and timber arched pergola on the ground floor leading to a panelled entrance door. As a consequence of the sloping site, the rear elevation presents with two storeys below the attic, with the ground floor opening up on to a flat rear garden through a verandah. The main block's smaller south-eastern wing was extended in the mid-19<sup>th</sup> century by another notable architect, George Street, who designed the Royal Courts of Justice.
8. In the late 19<sup>th</sup> century, the principal block was extended to the north with a side wing and large rear canted bay, all in the style of the original. This extended into what had formerly been a void between the principal residence and its outbuildings. The outbuildings themselves were then subsequently altered and extended to the north around an enlarged courtyard. The plans indicate that to the rear of the principal block and its outbuildings there were extensive grounds and pleasure gardens.
9. The incremental additions to the main residence and ancillary buildings resulted in Frognal Grove being a single continuous building, which was split into ten units in the mid-20<sup>th</sup> century. The principal block and its southern wing are now known as No 107 and No 105 respectively. The principal block's northern side wing and rear bay, together with the southern section of the former stable block became No 109. The remaining stable block became No 111, and is the appeal site.
10. The original detached stable block was a modest single storey block with a hay loft above a single room plan form at ground level, a central pedimented transept and cart door, and a pitched roof with front dormer windows. As with the main residential block, it was built into the underlying slope. A projecting front wing was later removed and by 1866 the stable block had been extended to the north, incorporating a gardener's cottage, and including a higher and more elaborate transept.
11. The subdivision of Frognal Grove followed neither age nor typology, and appears to be a fairly random arrangement. Nonetheless and notwithstanding how the accommodation is currently organised, the appreciation of Nos 105–

111 requires consideration of the entire range, as each constituent part reflects the estate's evolution and function at each period in its history.

12. In the mid-20<sup>th</sup> century No 111 was occupied by sculptor Sir Anthony Caro, under whose direction No 111 underwent a significant change, with the loss of much of the original Georgian fabric. The original cart door openings were infilled with inappropriate glazed door and window panels and the ground floor levels were raised above the courtyard, in all likelihood to provide a floor level with the gardener's cottage. The front dormers were also replaced with longer flat roofed dormers.
13. Boxy flat-roofed rear extensions built in a Brutalist style replaced the rear pitched roof slope, and a uPVC greenhouse was attached to the southern end of the elevation. The rear garden was excavated to form a lightwell to illuminate accommodation on the ground floor.

### *Significance*

14. The appreciation and significance of Nos 105 -111 is derived from its historic association with the succession of prominent architects and artists who have influenced its design and development. In addition, the former principal block, southern wing and 19<sup>th</sup> century extensions in particular, have impressive and attractive facades and high quality intact historic fabric on their external envelopes. These have a style and ornamentation reflective of the fashion of the times and the owner's status. Even the former stable block has a degree of symmetry and classical ornamentation that ties it stylistically to the principal residence.
15. The variation in style, scale, ornamentation and materials across the range fully demonstrates the functional and social differentiation between buildings, reflective of a highly stratified society. However, the original principal block remains visually dominant, and Nos 105-111 as a whole provides a useful insight and evidential value into the establishment, development and evolution of a large country estate for an emerging professional class.
16. The understated charm of No 111 has a more modest and utilitarian aesthetic. However, lower grade materials and lower standards of workmanship do not necessarily equate to lower levels of importance when understanding the support provided by ancillary buildings within the estate. I appreciate that the subdivision of the plots has intruded into the setting of Nos 105-111, but this does not negate the other contributions made to the building's overall appreciation.
17. I conclude that the significance of Nos 105-111 is derived from its aesthetic, evidential and associative values, as well as its intact historic fabric, and the layout, scale and form of each phase of building.

### *Cellar*

18. Ongoing works at No 111 revealed subterranean brick lined compartments. The southern compartment was accessed via an external hatch. The northern compartment was backfilled with rubble and had no access point. Recollections from former occupiers and an employee confirm that a section of the southern compartment, with hatch access, was used as a coal hole or cellar in the 20<sup>th</sup> century.

19. The evidence indicates that the cellar walls extend some 2.4–2.6 metres below ground level, although it is unclear whether this is the case on all boundaries. It is also unclear whether there was an identifiable cellar floor surface.
20. The only tangible evidence of the uncovered historic fabric is a small selection of photographs provided by the appellant. These show several examples of roughshod construction using largely poorly formed bricks of varying age and condition, but do not identify location. One photograph indicates former plastering or limewash on the brick surface, another indicates headers that appear to have been recently chopped back, presumably as part of these works, whereas another section shows the manufactured ends of the headers still in situ.
21. The brickwork is distorted, and cracked in some places. Although described as Flemish bond in the evidence there is a very high proportion of headers in some sections, to a degree which is not necessarily indicative of Flemish bond. The evidence states that there are different phases of brickwork, but does not identify where the different phases are in relation to the overall structure or what the different phases might signify. In any case, as the photographs do not appear to form part of a comprehensive or systematic survey, their value in any meaningful assessment of the original fabric is limited.
22. The original function of the seemingly inaccessible subterranean chambers, is unclear. The heritage statement notes that there are other cellars along the range. Although no further information is given, it is possible that the southern compartment could have been accessed from the attached No 109, which was part of the original stable block when built. However, this is no longer verifiable.
23. Moreover, although No 111 is described throughout the evidence and the listing as a stable, it is unclear why a stable would have a suspended floor, or how this might have been supported. The map regression shows that there were other smaller buildings around the courtyard and when originally built the stable block had a narrower and lower projecting front wing. It seems to me that it cannot be ruled out that the horses were stabled in different buildings, now demolished. The presence of cart door openings on the front elevation does not in itself indicate that that building was used for horses.
24. The appeal statement sets out that the cellar does not relate to the functionality of No 111 as a stable block. However, the lack of clarity around the cellar's original purpose does not equate to it providing no evidence relating to the building's origins or function. As building a cellar would have been a considerable investment, particularly on a sloping site, it clearly had a purpose in relation to Nos 105-111 when it was built.
25. Furthermore, the northern compartment was found to be infilled with rubble, now removed. This would also have been a substantial building operation. As the rubble was not investigated when removed, or any recording undertaken, its origins, age and purpose are unknown. In any case, the cellar's significance has to be deduced in relation to the entire range, rather than the building currently known as No 111 which is only part of the original stable block. Moreover, the apparent conflict with the presumed functions of other parts of Nos 105 -111, could suggest that other presumptions are erroneous. It is also the case that there were buildings on the site when purchased by Flitcroft, which might have been subsumed into the Frogmal Grove building work.

26. The appellant's consultant considers that the brickwork was not designed to be seen. However, I agree with the Council that a cellar wall, whilst unseen by anyone except servants, would be likely to have more finish than what is shown. It also seems to me that that the building of extended foundations on what might have been made up ground cannot be discounted as an explanation for the construction, particularly given the apparent lack of access and sloping site.
27. The identification and assessment of the significance of the cellar, as required by Paragraph 195 of the National Planning Policy Framework (the Framework) has effectively been undertaken after the event. The opportunity to assess the cellar's construction, materials, relationship to the other parts of the former estate and function, has been lost.
28. Historic England's guidance<sup>2</sup> sets out that an understanding of significance must stem from the interest(s) of the heritage assets, whether archaeological, architectural, artistic or historic or a combination of these. It is not predicated upon visibility, whether from the public realm or private views, whether intended or unintended. Nor is it predicated upon quality of materials or workmanship.
29. As such, whilst it is not in dispute that the walls are utilitarian and lack the finesse of the brickwork in other locations, the inherent quality of the brickwork is not determinative in any consideration of the contribution the cellar walls make to the understanding of the building range as a whole. Nor is lack of intended visibility, or the fact that the cellar was not designed as habitable space determinative in any consideration of significance.
30. I conclude that there is a considerable lack of clarity surrounding the cellar's origins, purpose and associated works over time, as well as contradictions inherent in the known facts and the evidence before me. Nonetheless, the photographs show historic fabric, and it appears that there are known cellars beneath other parts of Nos 105-111. Consequently, whilst I appreciate that the cellar's significance may be unclear, I disagree with the appellant's argument that it had no significance in relation to the appreciation of Nos 105-111.

#### Works and effects

31. The northern and southern compartments have been lined with a reinforced concrete floor and walls, with a Newton drainage system, dry lining and insulation, electricity sockets, and a block and beam ceiling. The photographs show that reinforcement bars were placed directly against the original brickwork. The building of the concrete walls and floor have concealed and irrevocably damaged historic fabric dating from at least the mid-18<sup>th</sup> century.
32. As the height of the concrete structure shown on the drawings is greater than the 2.4-2.6 metres given as the approximate height of the cellar walls, it seems that there may also have been additional excavation to provide clearance.
33. All vestiges of the original brickwork have been lost. Even if I give weight to the appellant's argument that the brickwork had little inherent value, this can no longer be verified. The opportunity to assess the cellar's construction, materials, relationship to the other parts of the former estate and function, has

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<sup>2</sup> Statements of Heritage Significance: Advice Note 12

gone. There might also have been evidence that clarified whether the original floor was strong enough to accommodate horses and how it was supported.

34. Moreover, the transformation of two distinct brick lined subterranean compartments, with no clear access, into a large concrete storage space that is accessible from within No 111, is incongruous, and detracts from the original building's plan form and its function. Neither the form nor dimensions of the former structure have been retained and its fabric has been destroyed and/or irreversibly concealed. It is argued by the appellant that the works have improved the legibility of the building. However, this is inconsistent with the appeal statement that sets out that the cellar and its brickwork walls did not form part of the former stable block's legibility.

#### Emergency works

35. The argument is advanced by the appellant that the works were carried out on an emergency basis following investigations by their structural engineer. The works were carried out in 2018, and an application for works to the above ground residential structure was submitted in 2019. Yet the application for the works before me was not made until 2021, and the officer's report suggests that the cellar works were only revealed to the Council as a consequence of concerns raised by interested parties.
36. It is the case that emergency works can be carried out on listed buildings without prior consent, providing that it can be proved that the work was required due to health and safety reasons, that minimum measures were taken and that the local planning authority was notified in writing as soon as possible after carrying out the work. However, even if I gave weight to the argument that the work could not be delayed for reasons of safety, there is no evidence that the Council was advised in a timely manner that emergency works had been required and carried out.
37. Moreover, the Council's consultant advises that less intrusive options, such as an open steelwork frame to buttress the cellar walls, might have been an option<sup>3</sup>. I see no reason to disagree with the suggestion that less extensive works could have provided stabilisation, at least until relevant parties had been informed. Whilst it is the case that the Council's consultant has based its report on incomplete evidence and without seeing the cellar in its original state, that is because the Council was not made aware of the works until they had been completed. This does not necessarily invalidate their conclusions.
38. It is argued by the appellant that alternative bracing would have affected the cellar's usability as a basement. However, No 111 had a very limited cellar area before these works, and there is nothing before me to suggest that there was an imperative to create a large storage basement. Moreover, I see no reason why electricity sockets and insulation should be an integral part of building stabilisation, and conclude that stabilising works could have been undertaken to a lower specification.
39. It is also argued that the appellant was unaware that listed building consent for the cellar works was required. However, the evidence before me indicates that No 111's owners have a professional background in the restoration of historic buildings, and engaged chartered engineers who were aware that the building

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<sup>3</sup> Campbell Reith, February 2022

was listed. Moreover, the engineer's evidence sets out that the apparent absence of survey documentation highlighted by the Council can be attributed to the fact that the appellants are not lay people. In any case, the lack of awareness carries no weight in favour of the appeal.

*Other matters*

40. The listings state that the attached 103 Upper Frogmal Lodge was built as the Coach House for Frogmal Grove. However, although attached to Nos 105-111, and presenting as a rather grand and imposing dwelling in its own right, the map regression does not indicate that it had a functional relationship with Nos 105-111. I have also considered the listed front garden walls, railings, piers, gates and mounting block. Although these features add to the historic fabric, and contribute to the setting of Nos 105-111, their significance is unaffected by the works.
41. I appreciate that there is support for the appeal but personal and professional testimonials for the appellants weigh neither for nor against the appeal.
42. The Museum of London has made a representation indicating that the site lies outside the London's Archaeological Priority Areas. Nonetheless, the plan attached to LP Policy D2 appears to show that the site lies within an area of archaeological interest, and this is part of the local development plan. However, the Council has not raised a particular concern in this regard, and it weighs neither for nor against the appeal.
43. Concerns have been raised in relation to the impact of the works on the adjoining building and drainage. However, as I have found harm arising from the main issue it is not necessary for me to consider this further.
44. The Council has commented on the rectangular opening in the ceiling alongside the party wall with No 109 which indicates internal access. It seems highly unlikely that such a large and well-appointed storage area would be created without having a more convenient access than the current external hatch and ladder. However, this does not carry weight in my reasoning.
45. Three listed building consents have been drawn to my attention. In each case a below pavement vault has been lined and waterproofed. In the only case involving a Grade II\* listed building, the vaults are already in use as a restaurant. In none of the cases does there seem to be a concern raised in relation to the origins or function of the space. I conclude that these examples are not comparable to what is before me and in any case each appeal is determined on its own merits.

**Heritage balance and conclusion**

46. Below-ground evidence that might have enhanced the understanding of Nos 105-111 and the inter-relationships and functionality of its constituent parts, has been destroyed or irreversibly concealed through the excavation of backfill and the installation of reinforced concrete walling and flooring. As such, historic fabric has been lost and the ability to understand the history of No 111 in particular, and Nos 105-111 as a whole has been diminished, resulting in reduced significance at Nos 105-111. The works fail to preserve Nos 105-111 or any features of special architectural and/or historic character that they possess. This amounts to less than substantial harm.

47. There would therefore be conflict with Section 16(2) of the Act, Section 16 of the Framework which is concerned with the historic environment and Policy D2 of the Local Plan which is concerned with the safeguarding of listed buildings. There would also be conflict with Policy DH2 of the Neighbourhood Plan which requires development to protect and/or enhance buildings which make a positive contribution to the Hampstead Conservation Area.
48. Paragraph 202 of the Framework sets out that where a development proposal will lead to less than substantial harm, this harm should be weighed against the public benefits of that proposal.
49. Although the basement works have provided structural support for No 111 and thus aided its long-term stability, I have concluded that less intrusive options were available. Even if I gave the public benefits of stabilising the building some weight, it would be insufficient to outweigh the less than substantial harm arising from the obliteration of the historic cellar fabric, as the evidence suggests that other options were available.
50. The appeal statement argues that the restoration of the original floor level behind the cart door openings represents a heritage benefit, as do the other renovation works. However, these benefits are not predicated upon the creation of a basement below the new floor, whatever its level. The benefits arising from the basement are entirely private. As such, whilst the restoration of the former floor level would have some public benefit, this does not outweigh the harm generated by the other works that are the subject of this appeal.
51. The public benefits arising from the other consented works with regard to the removal of inappropriate additions to No 111 do not weigh in favour of the appeal as they are separate from and not dependent upon the concrete basement works.
52. The works conflict with the Act, the Framework and the local development plan. There are no material considerations of such weight to lead me to conclude otherwise. As such, the appeal is dismissed and listed building consent is refused.

*A Edgington*

INSPECTOR