

Delegated Report		Analysis sheet		Expiry Date:	05/04/2024
		N/A / attached		Consultation Expiry Date:	19/05/2024
Officer			Application Number(s)		
Ben Greene			(i) 2024/0522/L (ii) 2024/0523/P		
Application Address			Drawing Numbers		
111 Frognal London NW3 6XR			Please refer to decision notice		
PO 3/4	Area Team Signature	C&UD	Authorised Officer Signature		
Proposal(s)					
<p>(i) Variation of condition 2 (approved drawings) and removal of condition 4 (details drawings) of Listed Building Consent ref: 2019/6100/L dated 03/03/2020, which itself was varied by 2021/3075/L dated 18/10/2021 for the erection of basement room beneath garden, erection of single storey rear extension at upper ground level and reinstatement of historic gabled rear elevation; replacement front dormer windows; internal and external refurbishment (summary); Namely, changes to internal layouts, amendment to front dormer window, reduction to approved swimming pool, inclusion of timber and mesh balustrades and lime render finish, and introduction of a electric charging port in the front landscaped area.</p> <p>(ii) Variation of condition 3 (approved drawings) of planning permission ref: 2019/6089/P dated 03/03/2020, which itself was varied by 2021/3072/P dated 18/10/2021 for the erection of basement room beneath garden, erection of single storey rear extension at upper ground level and reinstatement of historic gabled rear elevation; replacement front dormer windows; internal and external refurbishment (summary); Namely, changes to internal layouts, amendment to front dormer window, reduction to approved swimming pool, inclusion of timber and mesh balustrades and lime render finish, and introduction of a electric charging port in the front landscaped area.</p>					

Recommendations:	<p>(i) Refuse Planning Permission</p> <p>(ii) Refuse Listed Building Consent</p> <p>(iii) That the Borough Solicitor be instructed to issue a Breach of condition notice under Section 187 A of the Town and Country Planning Act 1990 as amended requiring compliance with condition 2 of planning permission reference 2019/6089/P granted 03/03/2020, and officers be authorised in the event of non-compliance, to commence legal proceedings under Section 187 A(8) and (9) or other appropriate power and/or take direct action under Section 178 in order to secure the cessation of the breach of planning control.</p> <p>(iv) That the Borough Solicitor be instructed to issue a Listed Building Enforcement Notice under Section 38 of the Planning (Listed Buildings and Conservation Areas) Act 1990, as amended, and in the event of non-compliance with the notice, the Borough Solicitor be authorised to pursue any legal action necessary to prosecute the owner under Section 43 of the Act and or other appropriate power and/or the Executive Director Supporting Communities be authorised to take direct action under Section 42 of the Act to secure compliance with the notice.</p>
Application Types:	Variation or Removal of Conditions(s)

Conditions or Reasons for Refusal:	Refer to Draft Decision Notices					
Informatives:						
Consultations						
Adjoining Occupiers:			No. of responses	01	No. of objections	01
Summary of consultation responses:	<p>The application was advertised in the local press on 25/04/2024, and a site notice was displayed on 24/04/2024.</p> <p>Objections were received relating to a swimming pool constructed to the rear of the site without planning permission.</p> <p>Concerns raised:</p> <ul style="list-style-type: none"> - The pool that has been constructed does not benefit from planning permission. - The unauthorised basement is larger than permitted and harmful to the listed building. - There is a new building being constructed in the frontage without permission. - The chimney has been enlarged without permission. - Impact on 113 – The additional 1m to the depth of the upper ground floor extension 					
Historic England	<p>On the basis of the information available to date, we do not wish to offer any comments. We suggest that you seek the views of your specialist conservation advisers, as relevant.</p> <p>Authorisation to Determine an Application for Listed Building Consent as Seen Fit received from Secretary of State 25/04/2024.</p>					
CAAC/Local groups comments:	No response received from Hampstead CAAC or Hampstead Neighbourhood Forum.					

Site Description

The site is a stable block range dating from approximately 1740, attributed to Flitcroft and listed Grade II*, adapted by noted New Brutalists the Smithsons for sculptor Caro in the 1960s.

The façade retains its general form, although the doors and windows have been replaced (apart from one sash window) and the brickwork has been painted. Flat box dormers were previously inserted in the roof to replace originals. The interior has been extensively modernised, including the conversion of some of the attics to rooms with a box-back mansard, however, appreciation of the site's original function, as a stable block, has been retained in the single-room plan.

To the rear, a large garden slopes towards the house, terminating in flights of concrete steps, herbaceous borders and a small concrete terrace. The site currently has an ongoing enforcement case against it, relating to the basement not being built in accordance with approved plans (planning ref 2021/6089/P and 2021/3072/P, enforcement ref EN23/0754) and being significantly larger than was permitted.

The site is located on the western side of Frognal, a quiet residential road accessed from Frognal Rise. It is within the Hampstead Conservation Area and Hampstead Neighbourhood Forum Area.

Relevant History

Planning Enforcement history:

There are two live planning enforcement cases relating to the site.

EN23/0754 – The Council intends to issue a Breach of Condition Notice for the following breach of conditions:

Breach of condition 3 of planning permission 2019/6089/P for Demolition of non-original extensions including rear box back extension, uPVC greenhouse and boiler house; excavation of rear garden and erection of basement room beneath garden; erection of single storey rear extension at upper ground level and reinstatement of historic sloping roof, rear dormer and gable; replacement front dormer windows; internal and external refurbishment including removal of non-original partition walls and staircase, alterations to front and rear fenestration and reinstatement of timber stable doors

AND

Breach of condition 3 of planning permission 2021/3072/P for Variation of condition 3 (approved drawings) of planning permission ref: 2019/6089/P granted 03/03/2020 for the erection of basement room beneath garden, erection of single storey rear extension at upper ground level and reinstatement of historic gabled rear elevation; replacement front dormer windows; internal and external refurbishment (summary); Namely, changes to internal layouts, changes to footprint of rear extensions at ground and lower ground floor level, replacement of rear wall, and changes to new window design.

The unauthorised works are:

- Complete replacement of the main roof with raising of the ridgeline's maximum height, pitch and position at the front
- Increase in height of the front elevation so that the eaves position of the roof is higher.
- Alterations to the height of chimney abutting the central gabled projection
- Alterations to height of the two front gabled projections
- Size and position of front dormer windows.
- Size of rear dormer window.

- Height of rear upper floor extensions
- Installation of decking to the rear at garden level
- Installation of a swimming pool in the rear garden
- Erection of outbuilding to front garden

EN21/0110 – Unauthorised works to the basement for which the Council has commenced prosecution proceedings.

An enforcement investigation into unauthorised works to the basement is being carried out on reference EN21/0110. Listed building consent was refused on 14th April 2023 (2021/3086/L) for 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). A subsequent appeal was dismissed (APP/X5210/Y/22/3308964) on 28/07/2023. The Inspector did agree with the appellants assertions that they were not aware the needs listed building consent for the works, the works were emergency, cellar brickwork was designed not to be seen and had little inherent value, the cellar has no significant to the appreciation of nos.105-111, the works have improved the legibility of the building. The Inspector stated 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. The Inspector concluded the works fail to preserve Nos 105 -111 or any features of special architectural and/or historic character that they possess. This breach is considered to amount to less than substantial harm.

2022/2007/P - Green roof details required by condition 4 of planning permission ref: 2020/5992/P dated 15.09.2021 for the Demolition of rear garden sheds, erection of replacement outbuilding and creation of new access gate to rear boundary wall. **Granted 30/06/2022.**

2022/1202/P - Landscaping details required by condition 4 of planning permission ref: 2020/5992/P dated 15.09.2021 for the Demolition of rear garden sheds, erection of replacement outbuilding and creation of new access gate to rear boundary wall. **Granted 06/05/2022.**

2021/3086/L - 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). **Refused 14/04/2022 and appeal dismissed (ref APP/X5210/Y/22/3308964) 28/07/2023**

• Reason for Refusal:

(i) The development, by reason of the substantial damage to the fabric and historic character of the underfloor features, harms the special interest of the host listed building, contrary to policy D2 (Heritage) of the Camden Local Plan and policy DH2 (Conservation areas and listed buildings) of the Hampstead Neighbourhood Plan 2018.

2021/3803/P - 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). **Granted 14/04/2022.**

2021/3075/L - Variation of condition 2 (approved drawings) of listed building consent ref: 2019/6100/L granted 03/03/2020 for the erection of basement room beneath garden, erection of single storey rear extension at upper ground level and reinstatement of historic gabled rear elevation; replacement front dormer windows; internal and external refurbishment (summary); Namely, changes to internal

layouts, changes to footprint of rear extensions at ground and lower ground floor level, replacement of rear wall, changes to new window design, replacement floor joists, amendment to stair position. **Granted 18/10/2021.**

2021/3072/P - Variation of condition 3 (approved drawings) of planning permission ref: 2019/6089/P granted 03/03/2020 for the erection of basement room beneath garden, erection of single storey rear extension at upper ground level and reinstatement of historic gabled rear elevation; replacement front dormer windows; internal and external refurbishment (summary); Namely, changes to internal layouts, changes to footprint of rear extensions at ground and lower ground floor level, replacement of rear wall, and changes to new window design. **Granted 18/10/2021.**

2021/0406/L - Variation of condition 2 (approved drawings) of listed building consent ref: 2019/6100/L granted 03/03/2020 for the erection of basement room beneath garden, erection of single storey rear extension at upper ground level and reinstatement of historic gabled rear elevation; replacement front dormer windows; internal and external refurbishment (summary); Namely, changes to internal layouts, changes to footprint of rear extensions at ground and lower ground floor level, replacement of rear wall, installation of railings and planters to rear, changes to new window design, replacement floor joists, amendment to stair position. **Refused with Warning of Enforcement action to be taken 17/05/2021.**

- Reason for refusal:

(i) The development, by reason of the cumulative impact of the size of the rear extensions at upper ground and lower ground floor level, the proposed materials, and garden railings and planter boxes, harms the special historic and architectural interest of the listed building, contrary to policy D2 (Heritage) of the Camden Local Plan and policy DH2 (Conservation areas and listed buildings) of the Hampstead Neighbourhood Plan 2018.

2021/0409/P - Variation of condition 3 (approved drawings) of planning permission ref: 2019/6089/P granted 03/03/2020 for the erection of basement room beneath garden, erection of single storey rear extension at upper ground level and reinstatement of historic gabled rear elevation; replacement front dormer windows; internal and external refurbishment (summary); Namely, changes to internal layouts, changes to footprint of rear extensions at ground and lower ground floor level, replacement of rear wall, installation of railings and planters to rear, and changes to new window design. **Refused with Warning of Enforcement action to be taken 17/05/2021.**

- Reasons for refusal:

(i) The development, by reason of the cumulative impact of the size of the rear extensions at upper ground and lower ground floor level, the proposed materials, and garden railings and planter boxes, harms the character and appearance of the host listed building and this part of the conservation area, contrary to policies D1 (Design) and D2 (Heritage) of the Camden Local Plan and policies DH1 (Design) and DH2 (Conservation areas and listed buildings) of the Hampstead Neighbourhood Plan 2018.

(ii) In the absence of a basement impact assessment, it has not been satisfactorily demonstrated that the basement has not harmed the structural stability of the building or neighbouring properties or adversely affect the structural, ground and water conditions of the area, contrary to policy A5 (Basements) of the Camden Local Plan 2017 and policy BA1 (Basement impact assessments) of the Hampstead Neighbourhood Plan 2018.

2020/5992/P & 2020/5993/L – Demolition of rear garden sheds and erection of replacement outbuilding. **Granted 15/09/2021.**

2019/6089/P & 2019/6100/L - Demolition of non-original extensions including rear dormer, uPVC greenhouse and boiler house; excavation of rear garden and erection of basement room beneath garden; erection of single storey rear extension at upper ground level and reinstatement of historic gabled rear elevation; replacement front dormer windows; internal and external refurbishment including removal of non-original partition walls and staircase, alterations to front and rear fenestration and reinstatement of timber stable doors. **Granted 03/03/2020.**

2020/3181/P - Details of basement engineer, building foundations, and tree protection measures required by conditions 4, 5 and 6 of planning permission granted on 03/03/2020 under ref: 2019/6089/P for the 'Demolition of non-original extensions including rear box back extension, uPVC greenhouse and boiler house; excavation of rear garden and erection of basement room beneath garden; erection of single storey rear extension at upper ground level and reinstatement of historic sloping roof, rear dormer and gable; replacement front dormer windows; internal and external refurbishment including removal of non-original partition walls and staircase, alterations to front and rear fenestration and reinstatement of timber stable doors'. **Granted 05/08/2020.**

2004/2563/P & 2005/0330/L - Retention of higher replacement gates at front boundary and new trellis on existing front boundary brick wall, plus retention of replacement metal gates at rear entrance facing Oak Hill Way. **Granted 18/03/2005.**

3364 - The erection of a two-storey addition to the rear of 111 Frognal, Hampstead. Granted 08/08/1960.

Relevant policies

National Planning Policy Framework 2024

Achieving well-designed places - Sections 131-141

Conserving and Enhancing the Historic Environment - Sections 202-221

NPPG

London Plan 2021

Mayor's Supplementary Planning Guidance

Camden Local Plan (2017)

A1 Managing the impact of development

D1 Design

D2 Heritage

Hampstead Neighbourhood Plan 2025-2040

DH1 – Design

DH2 – Conservation areas and listed buildings

Supplementary Planning Policies

Camden Planning Guidance

Amenity CPG 2021

Design CPG 2021

Hampstead Conservation Area Statement

History – pages 8-11

Sub Area 5 Frognal - pages 39-41

Assessment

1. Background and Retrospective Changes

1.1 Planning permission and listed building consent were previously approved under references 2019/6089/P and 2019/6100/L (granted 03/03/2020) for the following works:

- Demolition of non-original extensions including rear box back extension, uPVC greenhouse and boiler house
- Excavation of rear garden and erection of basement room beneath garden
- Erection of single storey rear extension at upper ground level
- Reinstatement of historic sloping roof, rear dormer and gable
- Installation of replacement front dormer windows
- Internal and external refurbishment including removal of non-original partition walls and staircase, alterations to front and rear fenestration and reinstatement of timber stable doors.

1.2 Planning permission and listed building consent was later varied via applications 2021/3072/P and 2021/3075/L (granted 18/10/2021) for the following works:

- Increase in size to approved basement from 6.9m x 4.2m to 7.9m x 4.7m, with the additional area created to be backfilled so as to not be used as habitable space. The GIA would increase 6sqm from 22sqm to 28sqm.
- Increase in size to previously granted upper ground floor rear extension from 6.6m x 4.6m to 6.26m x 5.56m with an overall footprint increase of 2sqm.
- Extension of the lower ground floor 'boot room' by 1m.
- Replacement of the rear wall adjoining the lower ground and upper ground rear extensions and associated replacement of the floor joists.
- Change to the glazing bar pattern of the front sash window to be in keeping with the original window design.
- Small increase in size to the two approved rear facing lower ground floor windows.
- Internal alterations including positions of walls, doors, and change in staircase design.

1.3 Planning permission was granted subject to several conditions including:

- Condition 2 requiring all work to be carried out in materials that as closely as possible resemble those of the existing building.
- Condition 3 detailing the approved plan list.

1.4 Permission is now sought for various amendments to the approved proposals. These amendments have been implemented on site and therefore retrospective consent is now sought. The amendments include the following:

- Internal changes including to walls, doors, staircases and layout of WC's.
- Minor alterations to position of ground floor front facing window.
- Reduction in height of the restored chimney
- Increase in size of front dormers
- Wooden decking to the rear installed instead of green roofs
- Increase in ridge height with firebreak
- Alterations to the roof pitch
- Raising of eaves and moving the roof forward
- Increase in height to central pediments
- Increase in height to rear extension
- Increase in size to rear dormer
- Lime render finish to rear lower ground floor space
- Landscaping alterations to the rear

2. Assessment

2.1 The principal planning considerations are considered to be the following:

- Design and Heritage
- Neighbouring amenity

3. Design and Heritage

Policy Framework

3.1 The Council's design policies are aimed at achieving the highest standard of design in all developments, including where alterations and extensions are proposed. Policy D1 of the Local Plan requires development to be of the highest architectural and urban design quality, which improves the function, appearance and character of the area; and Policy D2 states that the Council will preserve, and where appropriate, enhance Camden's rich and diverse heritage assets and their settings, including conservation areas and listed buildings.

3.2 Policy DH1 of the Hampstead Neighbourhood Plan expects proposals to respect and enhance the character and local context of the relevant character areas, and to respond and contribute positively to the distinctiveness and history of the character areas through their design and landscaping. Policy DH2 requires development proposals to protect and/or enhance buildings (or other elements) which make a positive contribution to the conservation area, as identified in the relevant Conservation Area Appraisals and Management Strategies.

3.3 Camden's Local Plan is supported by CPG document 'Design' and the Hampstead Conservation Area Statement.

3.4 Sections 16, 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 ("the Listed Buildings Act") provide a statutory presumption in favour of the preservation of the character and appearance of Conservation Areas, and the preservation of Listed Buildings and their settings. Considerable importance and weight should be attached to their preservation. A proposal which would cause harm should only be permitted where there are strong countervailing planning considerations which are sufficiently powerful to outweigh the presumption.

3.5 The duties imposed by the Listed Buildings Act are in addition to the duty imposed by section 38(6) of the Planning and Compulsory Purchase Act 2004, to determine the application in accordance with the development plan unless material considerations indicate otherwise.

3.6 The context of the site must be taken into account when viewing the current planning application, as there has already been less than significant harm caused to the site by way of unlawful works at lower ground level basement. Under appeal decision (ref APP/X5210/Y/22/3308964) the planning inspector has determined that due to unauthorised works there is now reduced heritage significance of the site, and so it is of greater importance to preserve remaining historic fabric to reduce the harm to the site when viewed as a whole and not just within the context of the current application.

The National Planning Policy Framework 2019 (NPPF)

3.7 The NPPF requires its own exercise to be undertaken as set out in chapter 16 - Conserving and enhancing the historic environment. Paragraph 208 requires local planning authorities to identify and assess the particular significance of any heritage assets that may be affected by a proposal. Paragraphs 207-221 require consideration as to the impact of a proposed development on the

significance of a designated heritage asset, including an assessment and identification of any harm/the degree of harm. Paragraph 215 states:

'Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.'

Application site and assessment of significance

3.8 The subject site is a former stable building, part of a larger estate by Flitcroft, listed Grade II*. It is one of four adjacent properties at nos. 105 – 111 Frognaal that comprise the former Frognaal Grove and its stable block and gardener's cottage, which is now four semi-detached properties. The four properties form part of a group listing, first being listed in 1950 for their architectural and historic interest, as well as their group value.

3.9 Frognaal Grove was a country house built by Henry Flitcroft in 1750. The estate, including the main manor house, outbuildings and gardens, was sold for conversion in 1953. Three dwellings were formed from the main house and a fourth from the stables and gardener's cottage.

3.10 The original stable block built by Flitcroft in the 18th century was largely rebuilt and extended to the north in the mid/late 19th century. As part of the 1950s subdivision of the estate, the stable block was divided in two and its courtyard separated. The southern bay of the stables now forms part of no.109 Frognaal which includes part of the stable and the late 19th-century extension of the house. No. 111 Frognaal comprises the former cottage (northern range) and the northern part of the stable block which contains two pedimented gabled bays either side of the central range.

3.11 The site was bought by Anthony and Sheila Caro in the late 1950s. The Caros converted the stables and the gardeners cottage into residential accommodation and carried out a number of alterations including removal of historic dormers and the removal of stable doors and windows and replacement with casement windows to the front elevation. More significant changes were made to the rear including a new rear extension, excavation of garden ground level, removal of roof and erection of new box back extension, and changes to windows and doors.

3.12 As mentioned above, it is the building's historic and architectural interest which is considered to contribute to its significance. The site has already been harmed and its significance reduced due to unauthorised works to the lower ground floor basement extension, which has the result of any further harm being greater as it strays further from the original heritage asset. 111 Frognaal's architectural interest derives from the surviving historic fabric and what remains of the original front façade, its simple layout as a loft above a stable, and its single-cell-deep plan form, attesting to its former use.

3.13 The building's historic interest derives from its relationship with the larger Frognaal Grove estate, its historic association with Henry Flitcroft and GE Street, and the more recent association with the Caros.

Hampstead Conservation Area

3.14 The application site is located within Sub Area 5 (Frognaal) of the Hampstead Conservation Area.

3.15 As described in the Conservation Area Statement, Hampstead has an exceptional combination of characteristics that provide the distinct and special qualities of the Conservation Area - the variety of spaces, quality of the buildings, relationships between areas, all laid upon the dramatic setting of the steep slopes, contribute to the character of the area. The contrast between the dense urban heart of Hampstead and the spaciousness of the outer areas is one of its major characteristics. It also demonstrates its historic development with the 18th century village still evident, adjacent to the streets created in the Victorian era, as well as many 20th century contributions. The Conservation

Area character is therefore derived from the wide range of areas within it, each of which makes an important and valuable contribution to the Conservation Area as a whole.

3.16 The planning inspector in the appeal APP/X5210/Y/22/3308964 described the significance of the site as follows:

- 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 19th 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.
- 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.
- 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. 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.

Assessment of proposals

How the as built differs to what is approved:

	Approved	As built/Permission now sought
Front Roof	Increase to ridge height only shown on one elevational plan and not included on the development description.	<ul style="list-style-type: none"> • Entire roof rebuilt so that the pitch of the roof no longer follows that of no.109 but sits further forward. • Fire break more prominent than depicted on drawings. • Increase of ridge height beyond what was approved. • Alteration to pitch and position of roof
Chimney next to central pediment	Repair and rebuilding of chimney. No change to height of chimney	The chimney was built 0.8m lower than approved previously, but site visits confirm the chimney has now been raised in accordance with approved plans.
Front elevation	Insertion of 2 x large timber doors with glazed doors behind	<ul style="list-style-type: none"> • The height of the front elevation has been increased so that the fascia and gutter line have risen by approximately 160mm

(excluding roof)		
Front dormers windows	Pre-existing 2 x front dormers were to be replaced with more sympathetic form as informed by a 1949 site photograph of the property (Drawing reference E1.CC Rev 09)	<ul style="list-style-type: none"> • As built front dormers are larger and bulkier than shown on approved drawings. • Position of the left hand side dormer window is incorrect. It sits closer to the central gabled projection than depicted on approved drawings. • The height of the left hand sided dormer is approximately 302cm taller than the approved dormer window.
Central pediment and south side pediment	Diocletian windows reinstated	<ul style="list-style-type: none"> • The pediments roofs have been rebuilt • Diocletian windows not reinstated. (pre-existing window to left hand side pediment still in place)
Rear extensions, rear dormer window and rear kitchen crown roof	<ul style="list-style-type: none"> • Erection of single storey rear extension at upper ground level • Reinstatement of historic sloping roof to rear, rear dormer and gable • A new rear dormer was granted with slim plain detailing and 9 over 9 windows. The rear dormer window would be set within the roof slope. • Crown roof permitted 	<ul style="list-style-type: none"> • The extensions appear to be taller than permitted. • The rear dormer window is taller than permitted and has a substantial brow and cheeks faced in lapped timber, rather than the slim, plain detail consented. It sits prominent on the roof slope rather than set within the roof slope. • Position of crown roof is higher as the overall roof is higher. In addition the crown roof is taller than shown on approved plans.
Internal layout	<ul style="list-style-type: none"> • South staircase – approved as dog leg • Master bathroom – two doorways approved • Guest bedroom with bathroom north wing 	<ul style="list-style-type: none"> • South staircase as built – straight run • Master bedroom – one doorway removed • Guest bedroom omitted
External finish to	A mix of lime render finish and tiles	<ul style="list-style-type: none"> • Lime render finish to entire courtyard

rear courtyard		
Rear Landscaping	Original garden level reinstated adjacent to the main dwelling with soft landscaping illustrated on approved plan P2.UG Rev 08	<ul style="list-style-type: none"> • Decking installed instead of garden roofs

Figure 3.

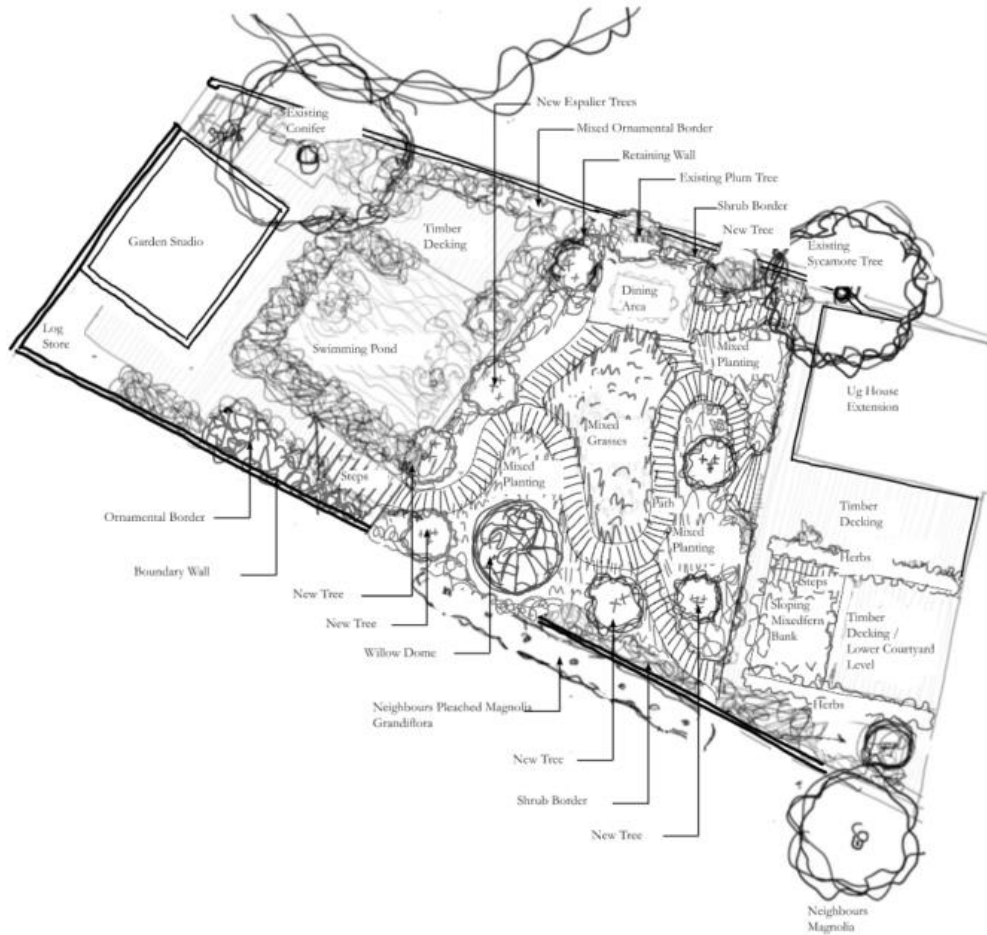
3.17 The original consented scheme was considered, on balance, to provide an overall heritage benefit to the significance of the host Grade II* listed building. Modest rear extensions were granted above and below ground, and the proposals included a number of heritage improvements which included the re-creation of a missing gabled transept and partial reinstatement of the roof pitch to the rear; the removal of the modern rear extension to reveal the full width of the 19th century transept; the reinstatement of traditional dormers to the front elevation; removal of harmful modern glazing and installation of more sympathetically designed windows and doors; and the partial restoration of the original landscaping scheme. The scheme was not carried out in accordance with the approved plans, with several elements being built larger than shown on plan and with positions being altered such as with the front dormer windows.

3.18 In addition, a basement which has been undertaken without consent and is the subject of prosecution procedures. This has been upheld at appeal (ref APP/X5210/Y/22/3308964), with the inspector stating no's. 105-111's significance is derived from its aesthetic, evidential and associative values, as well as its intact historic fabric and that due to unlawful works undertaken before the current application, the significance of this heritage assets has already been lessened and harmed.

3.19 The current retrospective variation of condition applications would seek to make lawful the changes made without planning permission, as shown above in Figure 3 detailing the approved changes and the existing as-built situation, which took place following the unauthorised work to the basement. It is evident that the originally granted scheme and the further granted variation of conditions (2021/3072/P and 2021/3075/L) were not followed necessitating a further variation of conditions to seek to make the works lawful.

3.20 Included in the proposed plan P1.P rev 13 is a pool which the applicant claims to have received planning permission however the size and scale of the pool as built compared to the pond that was originally granted are completely different nor was it included within the development description for the parent permission and the Council does not agree that a landscaping condition can be used for such a development.

3.21 The Landscaping Package ref. 118_01 under details submitted to discharged condition 4 (landscaping) 2022/1202/P showed a 'swimming pond' as shown in Figure 1. It was not included on any section plans or details provided of its construction. It must be noted that the annotation had been changed from 'Wildlife Pond' from the originally submitted Landscaping Package, and this change is seemingly not noticed in the reason for Granting or the Officer's Final Report. The Council does not consider that the principle of a swimming pool of the scale warranting the engineering operations that have been undertaken on site have been approved.



3.22

Figure 1.



3.23

Figure 2.

3.24 Site photos taken 03/10/2024 show a wholly different development, with deep foundations, significant retaining walls that is to be used as recreational swimming pool and not for wildlife

purposes. No details have been provided regarding the foundations, and as the use, size, and scale are completely different from the original permission it is not considered to currently benefit from planning permission.

3.25 Permission under section 73 can only take effect as an independent permission to carry out the same development as previously permitted, but subject to the new or amended conditions. It cannot include additional development not previously permitted as is sought in this case. Had it been possible to include the addition, the Council would have required a basement impact assessment, sectional drawings showing the depth, and a landscape plan.

3.26 As a BIA, sectional drawings and a landscape plan have not been provided, the insufficient information provided relating to the pool would have formed an additional reason for refusal if the pool were to be considered under the current application. The site is located within an area of surface and ground water flow, flooding concerns and slope stability, accordingly a Basement Impact Assessment would have been required to accompany a planning application for a development of this scale. Policy A5 Basements states that the Council will only permit basement development where it is demonstrated to its satisfaction that the proposal would not cause harm to a) neighbouring properties; b. the structural, ground, or water conditions of the area; c. the character and amenity of the area; d. the architectural character of the building; and e. the significance of heritage assets. In determining proposals for basements and other underground development, the Council will require an assessment of the scheme's impact on drainage, flooding, groundwater conditions and structural stability in the form of a Basement Impact Assessment and where appropriate, a Basement Construction Plan.

3.27 **Roof works** - The front roof slope has been reconstructed and significantly altered, the extent of which has not been accurately shown by the applicant. The top of the eaves as built as shown on the photo below rises over half way up the chimney.

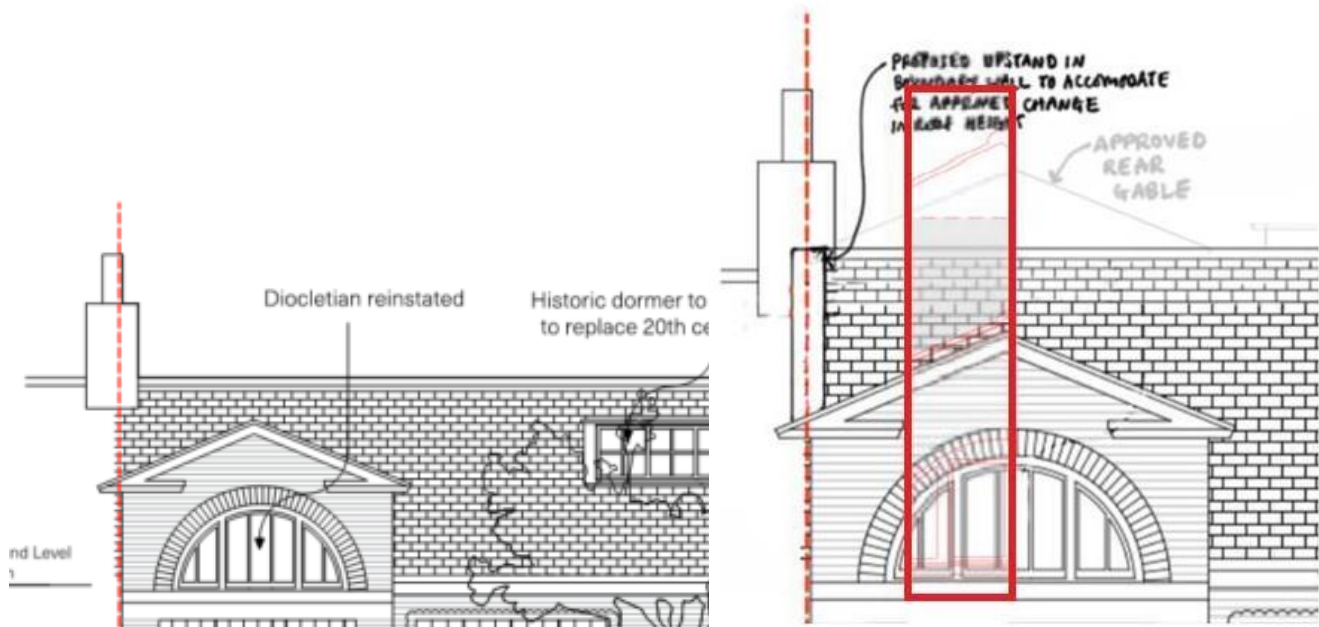
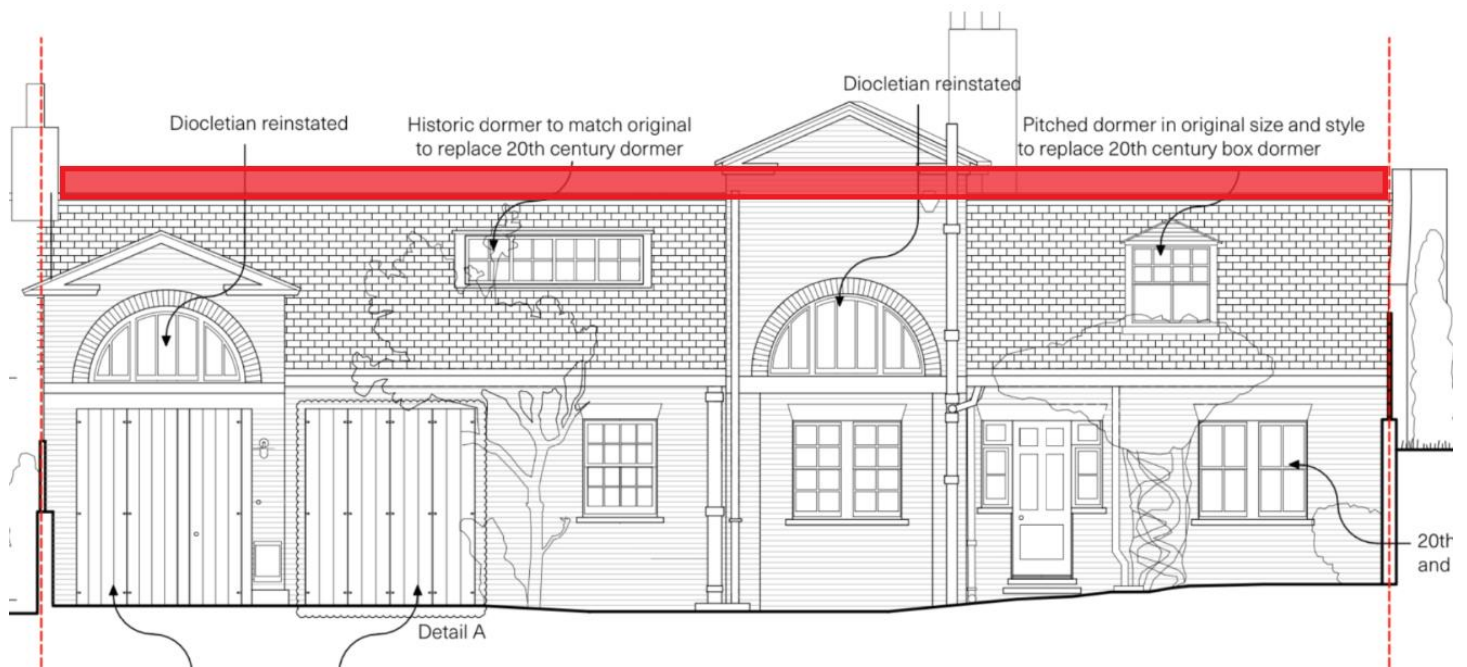


Figure 4 and Figure 4a

3.28 The applicant maintains that the increase in ridge height benefits from planning permission, as seen on approved plan E1.CC Rev.09 of 2021/0409/P (Figure 4a) which shows a minor increase to the ridge height (one row of slates) on one elevation within the submitted drawings. However, the development description of the 2021 permission was: Proposal: Variation of condition 3 (approved drawings) of planning permission ref 2019/6089/P granted 03/03/2020 for the erection of basement room beneath garden, erection of single storey rear extension at upper ground level and reinstatement of historic gabled rear elevation;

replacement front dormer windows; internal and external refurbishment (summary); Namely, changes to internal layouts, changes to footprint of rear extensions at ground and lower ground floor level, replacement of rear wall, and changes to new window design. The host permission did not include reference to rebuilding of the roof, therefore it would not be possible to use a Section 73 application to seek consent for such an addition. Furthermore, there is no mention of this change within the development description of the section 73 application.

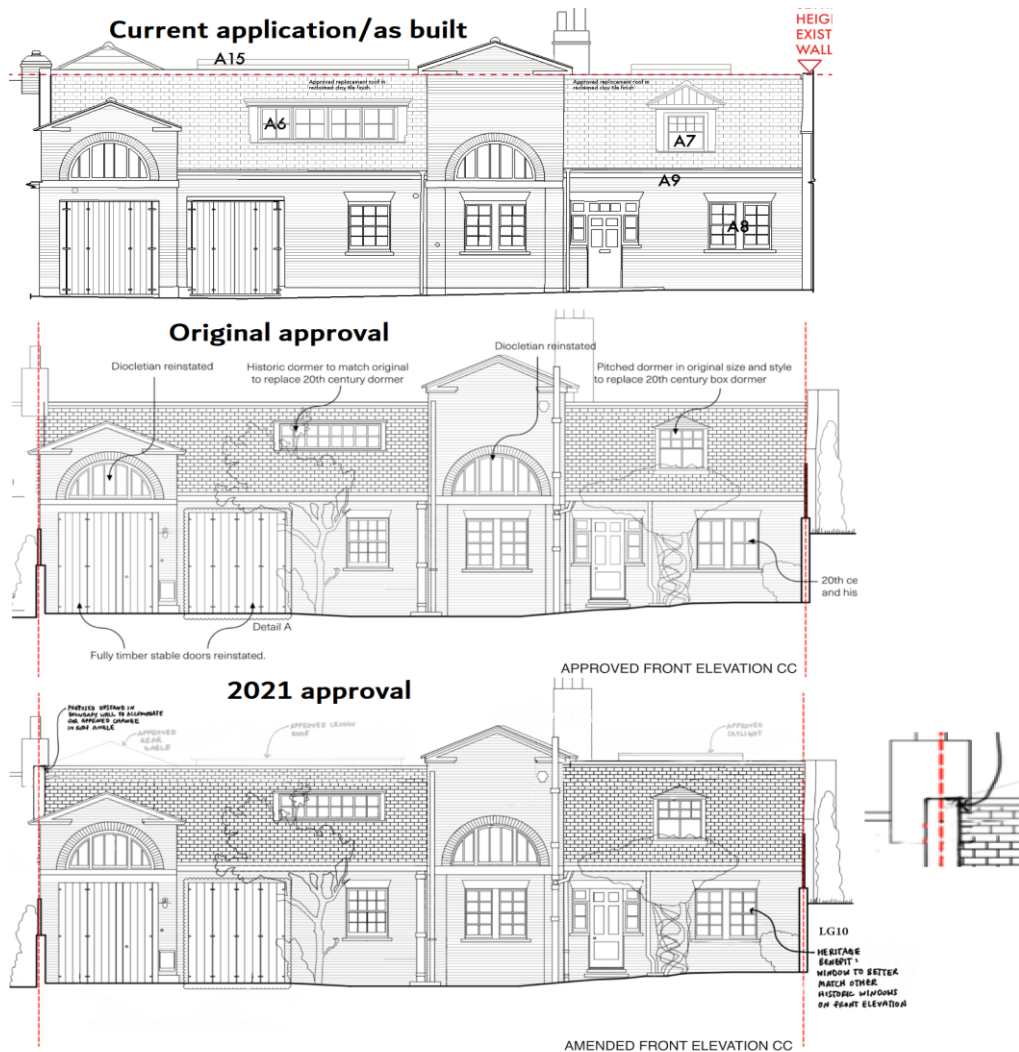
3.29 Accordingly, we do not consider that the Council has approved any increased in the height of the roof. Figure 4 shows the parent permission showing the ridgeline being consistent with that of the adjoining no. 109, which no permission has been granted that would in anyway alter or raise the height of the ridge. The full extent of the unauthorised increase in height is shown below in red. Whilst we consider that a fresh consent, rather than a further Section 73 consent should be submitted to seek to regularise this breach, the Council has assessed the change as part of this application.



3.30 Whether or not approval of this minor increase was intentional on the part of Camden Council is not relevant to this application, as the existing structure differs significantly to the approved plans. Both the approved plans and the proposed plans do not accurately demonstrate the as built increase in height which goes significantly above (as shown on the annotated drawing above) and alters the relationship of the dwelling when viewed with the adjoining no. 109 which clearly no longer reads as a single building.



Figure 5



3.31 The above image demonstrates clearly that the firebreak is higher than the approved scheme and the ridge height significantly higher than existing. It significantly visually interrupts the chimney breast. This change has caused significant harm to the listed building as it, and the neighbouring no. 109, no longer read as a single structure as it originally had been, but instead as two distinct and separate dwellings unrelated to each other except through being physically adjoining.

3.32 This change is exacerbated by the increase in the height of the eaves raising the height of the ground floor elevation. This change has altered the relationship of the roof slope with the lower level of the central pediment, as they no longer follow the same line but instead are set apart from each other. This causes harm in its own right, but further to this as shown in Figure 5, the increased height has been infilled with a brick stock that does not match the historic brickwork directly below, creating an obvious disconnect between the modern extension and the original listed building which draws further attention to the altered eaves height.





Figure 6

3.33 To facilitate the changes to the eaves height and the increase in ridge height, the entire front roof slope has been brought forward by approximately 0.45m which further damages the character of the dwelling. This is best demonstrated through Figures 5 which shows how the once prominent curved flank parapet that added to the aesthetic quality afforded by the dwelling to be much less noticeable, being largely obscured by the newly brought forward roof.



Figure 7

3.34 Permission was originally approved due to the resulting benefits to the listed building which including reinstating a number of elements to match that of the original building. The current works seek to take the building further away from both its original design and its former character. The extensive changes resulting from the complete redesign of the roof and front elevation have cumulatively eroded the benefits sought to be gained from the 2020 consent and the significance of the listed building to the detriment of the wider conservation area.

3.35 The alterations to the building do not create any public benefits which outweigh the harm caused.

3.36 Under the original scheme, permission was granted to replace the pre-existing chimney as it was damaged and no longer stood straight. The chimney was rebuilt 0.85m below the height

that was granted, and this causes harm as the relationship between the ridge height and the chimney had been altered. This further addition takes the building as built away from the original listed building which the inspector considered derives its value from its aesthetic qualities and that this was central to the reason for it being a heritage asset. Figure 8 shows in red the as constructed and in black, the as approved plans, submitted by the applicant to show the changes made.

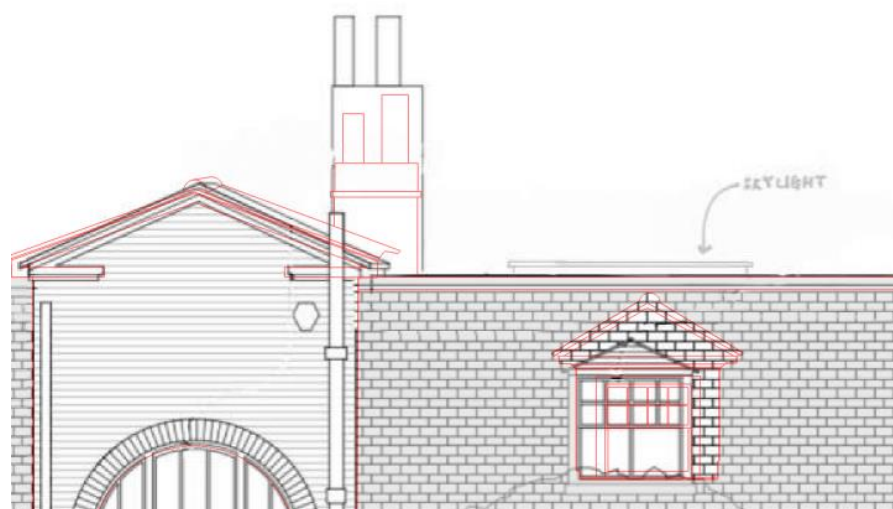


Figure 8

3.37 Since submitting the application, the chimney has been rebuilt to the approved height, as seen on site photos, and now is considered to be in line with the original permission. The increase in height restores the design of the roofscape as intended and is now again a clear and prominent feature, and so this an acceptable change that does not cause harm to the special character of the Listed Building.

3.38 The site has undergone several changes to the front elevation at the ground floor level, including increasing the height of the elevation by raising the bricks by approximately 0.3m, a change of position of a window serving a bedroom/bathroom, alteration to fenestration attached to front entrance, changes to fenestration design of remaining windows, and alterations to the dimensions of the reinstated timber stable doors due to raising of the eaves height.

3.39 The two front dormers had been replaced with box style dormers in the 1950's, and permission was granted to replace the dormer windows with smaller, redesigned editions that would be in a position similar to those original to the building.



3.40 The above Figure 9 shows seeks to show in black the 'as approved' drawings, and in red shows the 'as built' drawings. The Council considers the ridge height of the black building is not

accurate and shown higher than approved as outlined above. The dormers overall bulk now dominates the front elevation's roof, as opposed to the more modest approved designs that would have the same functionality while not being a visually prominent feature. The benefit of the approved dormers which replicated the position of the original is lost.

3.41 The dormers as built constitute harm to the listed building and wider conservation area by way of being unduly bulky and out of character. The site was originally an understated stable attached to a larger estate, and this is important to the character and what makes the building unique and important in terms of heritage, and so significantly increasing the overall size and volume of the roof when viewed from the front (in addition to the other aforementioned alterations relating to the front roof slope) would harm the established character. This would therefore form a reason for refusal as the harm is not justified and does not contribute to public good.

3.42 Central and south side pediment – The central and south side pediments are of great significance to the character of 111 Frognal, and are arguably the most defining features of the principal elevation. Drawings submitted by the applicant appear to show minor changes to the upper most sections of the pediments, including changes to the roof.

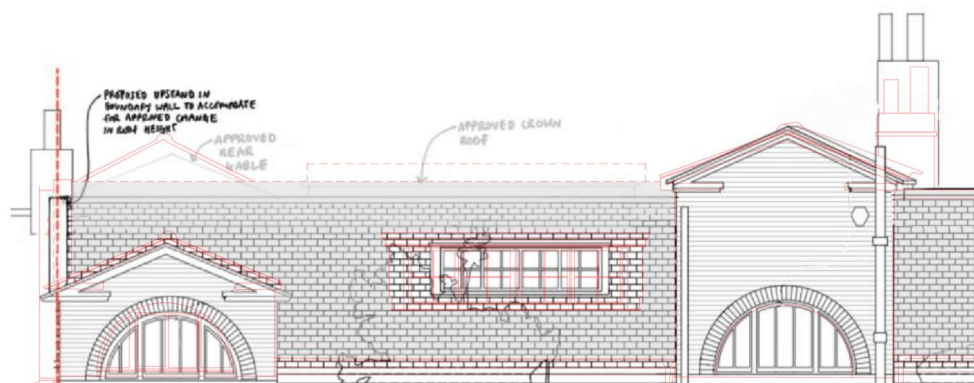


Figure 10

3.43 Site photos show that the original roof tiles had been removed and restored during the construction process relating to the rest of the roof. The two pediment roofs has been restored to its original form, other than changes to the trim below the eaves, which has been replaced with wood and painted to match the original. This is a minor alteration that remains faithful to the original design. The above Figure 10 show the pitches and heights to have changed, but it appears this is down to an inaccurate drawing. The changes to the ridge height which take the roof to the eaves height of the central pediment is considered harmful to this addition as outlined above

3.44 The rear elevation has seen several unlawful changes. The rear dormer has been constructed wider than originally granted with a greater maximum height, and is now more prominent when viewed from the front of the site. This has given the dormer overall greater bulk when compared to approved plans.

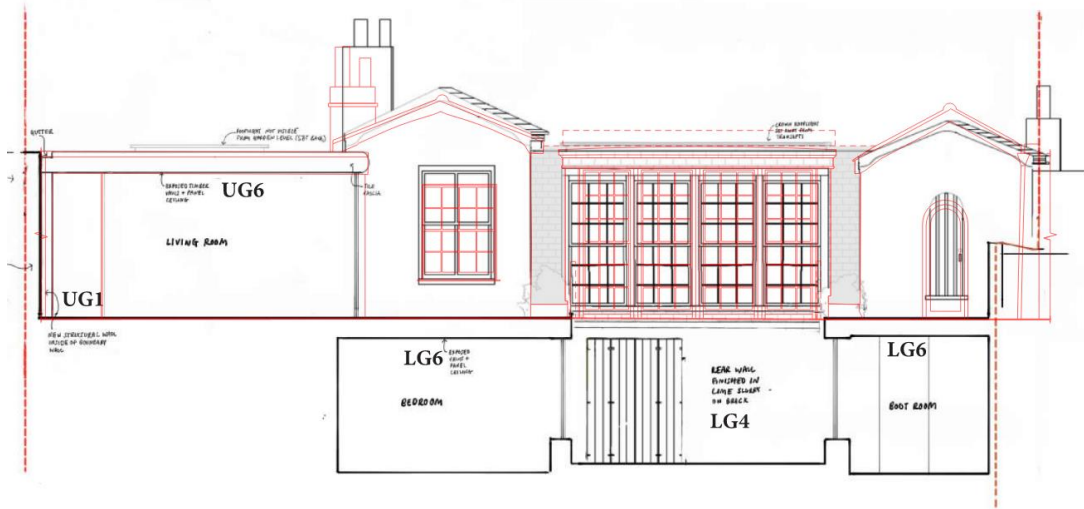


Figure 11

- 3.45 The dormer, is larger than granted, is an improvement compared to the pre-existing rear elevation. If the changes to the ridge height were considered acceptable then the increase in height would not be considered unduly harmful.
- 3.46 The rear dormer window reads as a dormer window rather, than a large box extension as was the case with the changes made in the 1950's, and it would have minimal views and impact due to being obscured by the building line, as it sits between the two rear facing pediment's gable ends.
- 3.47 On balance, if the change to the ridge height was considered acceptable, these additions alone would not be considered to cause significant harm, as the changes are made to non-original features, and the increased overall size is still in proportion with the other elements of the rear elevation.
- 3.48 There is no objection to the proposed minor amendments to the staircase design being changed from a dogleg to a straight staircase as this was a non-original feature first proposed in a previous application (2019/6089/P).
- 3.49 There are no objections to further alterations that have taken place internally, including changed access to the lower ground floor bathroom to be adjacent to the front entrance, removal of a modern partition at lower ground floor level to have a larger bedroom/bathroom, and the change of orientation to secondary internal staircase. An upper ground floor bedroom behind the smaller of the two dormer windows has been removed to allow for a larger living space. All are considered acceptable changes.
- 3.50 The rear lower ground floor courtyard had consent under 2021/3072/P for a lime render rear wall within the lower ground floor courtyard, with the internal flank walls to be a tile façade. The as built differs with the entire courtyard being lime rendered now, which is considered to be an improvement that creates a more cohesive design that is more sympathetic to the character of the dwelling. This view is supported by discussions with conservation officer who viewed this as an improvement on the previously granted consent.
- 3.51 As mentioned in section 1.11 a swimming pool has been constructed to the rear of the rear garden that differs significantly from any consent previously given. Insufficient details have been provided to assess the development and so it will not be considered under the current application.
- 3.52 To the rear a metal slide has been installed at the upper level that includes the aforementioned swimming pool and a consented rear outbuilding.

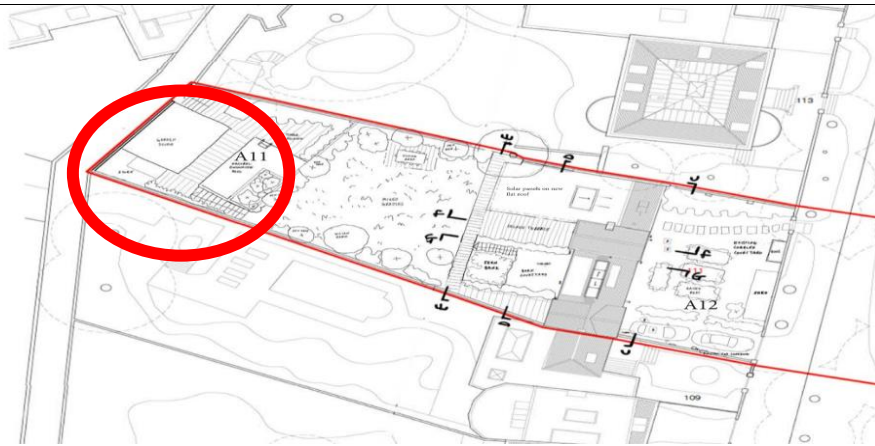


Figure 11

3.53 The aluminium slide that was seen on site visits has not received planning consent under any previous application, and as shown on Figure 11 which is the last approved document relating to landscaping (ref 2022/1202/P), no details have been provided under the current application and so no assessment will be given regarding its design or impacts on amenity.

3.54 Also, to the rear are timber handrails with a natural finish above the lower ground floor courtyard to provide additional safety as the current occupiers have young children. Through discussions with the conservation officer, it was determined that while the design and choice of materials would not be a sympathetic choice to compliment the established character of the site, this would not be significantly impactful so as to form a reason for refusal, and so on balance this minor change would be considered to be acceptable.

3.55 The same is true of the timber decking to the rear, as the space was previously approved to be a green roof but due to constructing the basement larger than approved, the client insists that a green roof would no longer be feasible due to lack of space, and so has opted for timber decking in a natural finish. This was objected to by the conservation officer due to harm to the character of the listed building and its setting, but planning officers consider this harm to be less than substantial and in the context of the site as a whole.

3.56 There are now other instances of natural wood being used, and given its position to the rear of the dwelling reducing views and impacts and the relatively minor degree of coverage its impact would be sufficiently mitigated and not be considered a reason for refusal. Overall the changes to the rear landscaping, while not in accordance with the proposed plans, would not cause harm to the character and setting of the heritage assets in question to any extent that would warrant a reason for refusal.

3.57 There is no objection to the changes to the design of the new garden basement windows as this would not represent a significant change from the approval or impact the significance of the building.

3.58 The NPPF states that in determining applications, local planning authorities should take account of: a) the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation; b) the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and c) the desirability of new development making a positive contribution to local character and distinctiveness (para.192). 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. This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance (para.193).

3.59 The proposals are considered to result in harm to the significance of the designated heritage asset, and in line with paragraph 196 of the NPPF, this harm would be less than substantial. Where a development proposal will lead to less than substantial harm to the significance of a designated

heritage asset, the NPPF (para. 196) requires that this harm to be weighed against the public benefits of the proposal including, where appropriate, securing the optimum viable use of that asset.

3.60 It is important to note that any changes made that are an improvement on the pre 2019 condition of the building are not necessarily an acceptable change as the applicant has said in correspondence. An improvement to a development that has caused harm does not equate to it now being of good design and sympathetic to the heritage of the site, only that now less harm is done. Less harm still constitutes as harm.

3.61 The harm caused by the development to the host building and wider conservation area is not justified, and there is no public benefit provided by the overall changes including the increase in size and alterations to the design.

3.62 As such, the proposals would not preserve or enhance the significance of the listed building, contrary to policies D1 and D2 of the Local Plan and policies DH1 and DH2 of the Hampstead Neighbourhood Plan, and this forms a reason for refusal.

4. Neighbouring Amenity

4.1 Policy A1 of the Local Plan seeks to protect the amenity of Camden's residents by ensuring the impact of development is fully considered and would not harm the amenity of neighbouring residents. This includes privacy, outlook, noise, daylight and sunlight.

4.2 The proposed variations include increases to bulk, scale, and massing to the front dormers, rear dormers and the overall roof height. This would not result in an increase to overlooking or a loss of outlook, as the rear dormer would not extend beyond the existing rear facing gable ends, and the front dormers do not overlook onto any neighbour. The increase in the ridge height is not significant enough to be unduly overbearing to the adjacent no. 109.

4.3 The development, both authorised and unauthorised has not resulted in any additional extensions or instances of overlooking and so is not considered harmful to the amenity of the neighbouring residents in terms of loss of outlook or overlooking.

5. Conclusion

5.1 In conclusion, the proposed development would not preserve or enhance the significance of the listed building, contrary to policies D1 and D2 of the Local Plan and policies DH1 and DH2 of the Hampstead Neighbourhood Plan, but rather, would result in harm to the significance of the listed building and no's. 105-109 that form the joint listing. This harm is considered to be less than substantial. The public benefits suggested by the applicant are acknowledged, but are not considered significant benefits and are therefore given low weight in the overall planning balance.

5.2 The proposal does not accord with the development plan (for the reasons outlined above) and there are no other material planning considerations (i.e. planning benefits) that indicate that planning permission or listed building consent should be granted, as required under Section 38(6) of the Planning and Compulsory Purchase Act (PCPA) 2004 and section 16 of the Planning (Listed Buildings and Conservation Areas) Act 1990. As such, it is recommended that planning permission and listed building consent are refused.

6. Recommendation

6.1 Recommendation 1: Refuse planning permission

6.2 Recommendation 2: Refuse listed building consent

6.3 Recommendation 3: That the Borough Solicitor be instructed to issue a Breach of condition notice under Section 187 A of the Town and Country Planning Act 1990 as amended requiring compliance with condition 3 of planning permission reference 2019/6089/P dated 03/03/2020 and officers be authorised in the event of non-compliance, to commence legal proceedings under Section 187 A(8) and (9) or other appropriate power and/or take direct action under Section 178 in order to secure the cessation of the breach of planning control.

6.4 Recommendation 4: That the Borough Solicitor be instructed to issue a Listed Building Enforcement Notice under Section 38 of the Planning (Listed Buildings and Conservation Areas) Act 1990, as amended, and in the event of non-compliance with the notice, the Borough Solicitor be authorised to pursue any legal action necessary to prosecute the owner under Section 43 of the Act and or other appropriate power and/or the Executive Director Supporting Communities be authorised to take direct action under Section 42 of the Act to secure compliance with the notice.

7. Planning reasons for refusal:

7.1 The development, by reason of the cumulative impact of the increase in ridge height, raising of the eaves height, resulting increase in height of the rear additions, repositioning of the front roof slope and the scale, location and design of the front dormers, harm the special character and appearance of the host building which is listed and the character and appearance of the wider conservation area, contrary to policies D1 (Design) and D2 (Heritage) of the Camden Local Plan and policies DH1 (Design) and DH2 (Conservation areas and listed buildings) of the Hampstead Neighbourhood Plan 2018.

7.2 The development, by reason of the alterations to the front elevation would be harmful to character and appearance of the host building which is listed and the character and appearance of the wider conservation area, contrary to policies D1 (Design) and D2 (Heritage) of the Camden Local Plan and policies DH1 (Design) and DH2 (Conservation areas and listed buildings) of the Hampstead Neighbourhood Plan 2018.

8. Listed building reason for refusal:

8.1 The development, by reason of the cumulative impact of the increase in ridge height, raising of the eaves height, resulting increase in height of the rear additions, repositioning of the front roof slope and the scale, location and design of the front dormers, harm the special character and historical significance of the Grade II listed building, and the character and appearance of the wider conservation area, contrary to policies D1 (Design) and D2 (Heritage) of the Camden Local Plan and policies DH1 (Design) and DH2 (Conservation areas and listed buildings) of the Hampstead Neighbourhood Plan 2018.

8.2 The development, by reason of the alterations to the front elevation, harm the special character and historical significance of the Grade II listed building, and the character and appearance of the wider conservation area, contrary to policies D1 (Design) and D2 (Heritage) of the Camden Local Plan and policies DH1 (Design) and DH2 (Conservation areas and listed buildings) of the Hampstead Neighbourhood Plan 2018.