

115 Frognal
London NW3 6XR

Heritage statement

October 2016

Consultancy for the
Historic Built Environment

KMIHeritage

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1 Introduction

- 1.1 This report has been prepared to support an application for planning permission for the redevelopment of the existing house at 115 Frognal, London NW3 6XR.

Purpose

- 1.2 The purpose of the report is to assess the proposed development for 115 Frognal against national and local policies relating to the historic built environment.
- 1.3 This report should be read in conjunction with the drawings and Design & Access Statement prepared by the Mark Ruthven Architects.

Organisation

- 1.4 This introduction is followed by a description of the history of the area in which 115 Frognal is located, and an analysis the heritage significance of the existing site and its context. Section 3 sets out the national and local policy and guidance relating to the historic built environment that is relevant to this matter. An analysis is provided in Section 4 of the proposal and its effect in heritage terms. Section 5 identifies compliance with policy and Section 6 is the summary and conclusion. There are a number of appendices.

Author

- 1.5 The lead author of this report is Kevin Murphy B.Arch MUBC RIBA IHBC. He was an Inspector of Historic Buildings in the London Region of English Heritage and dealt with a range of major projects involving listed buildings and conservation areas in London. Prior to this, he had been a conservation officer with the London Borough of Southwark, and was Head of Conservation and Design at Hackney Council between 1997 and 1999. He trained and worked as an architect, and has a specialist qualification in urban and building conservation. Kevin

Murphy was included for a number of years on the Heritage Lottery Fund's Directory of Expert Advisers.

- 1.6 Historical research was undertaken by Jonathan Clarke, BA (Hons), MSocSci, an experienced historic environment professional, with 17 years practice of working for English Heritage and the Royal Commission on the Historic Monuments of England, highly conversant in methods of researching and recording historic buildings, structures and areas, in assigning value, significance and context, and of writing to a high academic and publication standard. Research interests include the history of nineteenth- and early twentieth-century buildings and structures, especially their constructional aspects, and those utilising iron and/or steel, or serving industry.

2 The site and its context

Introduction

- 2.1 This section of the report briefly describes the history and development of the area around 115 Frognal and the history of the existing building on the site. Following this, an assessment of their heritage and townscape significance is provided.
- 2.2 Historical mapping is contained in Appendix A, and other appendices provide additional information in the site and its evolution.

History

Summary

- 2.3 Erected in 1956-7, No. 115 Frognal formed part of the mid-20th century redevelopment of Frognal Grove, an 18th-century house with extensive gardens and outbuildings that rose to prominence in the 1740s as the home of the architect Henry Flitcroft (1697-1769). Flitcroft, one the period's leading practitioners of Palladianism, extended and remodelled the house and its outbuildings, although it is unclear as to whether he reworked or rebuilt 'The Lodge', which until the early 1950s survived (in modified or rebuilt form) on the site of No. 15 Frognal. Frognal Grove saw further campaigns of alteration and additions in the 19th and early 20th centuries, but in 1950, when still occupied by one family, was given a grade II* listing. This however did not encompass 'The Lodge'. In the mid-1950s, Robert Hart & Sons Ltd, a local firm of developers, and Melville Seth-Ward and Partners, architects, redeveloped Frognal Grove, subdividing the main house, stables to create four properties with gardens, and dividing up the remaining grounds into five building plots, which were subsequently built upon by other architects including Trevor Dannatt and Alison & Peter Smithson. Originally it was intended that the single-storey 'Lodge' would be

extended laterally by Melville Seth-Ward and Partners to create a fifth property, but in the event this unlisted building was demolished and an entirely new and larger building built instead. Plans and correspondence relating to this Neo-Georgian house do not seemingly survive, but it seems likely that it was designed by Melville Seth-Ward and Partners, since it was this firm that 'master-planned' the overall redevelopment, and which had prepared earlier, surviving, plans for extending 'The Lodge'. The building was further extended at either end in the late 1960s or early 1970s. In architectural terms, No. 115 Frognal is perhaps the least interesting of the six properties that were built on the former Frognal Grove grounds in the period 1956-62, having been executed in an unadventurous style that was distinctly retardataire for the period, and probably by a firm that was, by this period, of declining importance.

History

- 2.4 No. 115 Frognal, a five-bay, two-storey (with attics) Neo-Georgian house with attached wings, stands on a site formerly occupied by one of the dwellings ('the Lodge') belonging to Frognal Grove, a house dating from 1700 or earlier on what was then heath. In 1741 the architect Henry Flitcroft acquired from Maria Maryon¹ (or Thomas Watson-Wentworth)² the copyhold of Frognal Grove for the purposes of erecting a house for his own use. The property consisted of some three or four dwellings, farms, stabling and a coach house, and Flitcroft augmented this by obtaining further grants of adjoining waste, including a 'lime walk' planted by an early owner, Edmund Bolesworth, which partly survives today. Over the period c1741-50, Flitcroft enlarged and rebuilt Frognal Grove (which survives as Nos 105 and 107 Frognal), the stables

¹ According to Gordon Nares, 'Frognal Grive, Hampstead: The Home of Mr. and Mrs. Ernest M. Joseph', *Country Life*, 24 June 1949, p. 1502

² According to VCH T F T Baker, Diane K Bolton and Patricia E C Croot, 'Hampstead: Frognal and the Central Demesne', in *A History of the County of Middlesex: Volume 9, Hampstead, Paddington*, ed. C R Elrington (London, 1989), p. 33

(No. 111), and is also credited with remodelling a 18th-century mansion to the north, Branch Hill Lodge (rebuilt in 1901, and now an old people's home). The main house, approached from Frognal by lime walk, consisted of a three-storey mansard-roofed block, with smaller wings set back on either side. Flitcroft occupied the house until his death in 1767, upon which it devolved to his lunatic son Henry, subsequently coming into the ownership of the Street family, into which Flitcroft's granddaughter had married.

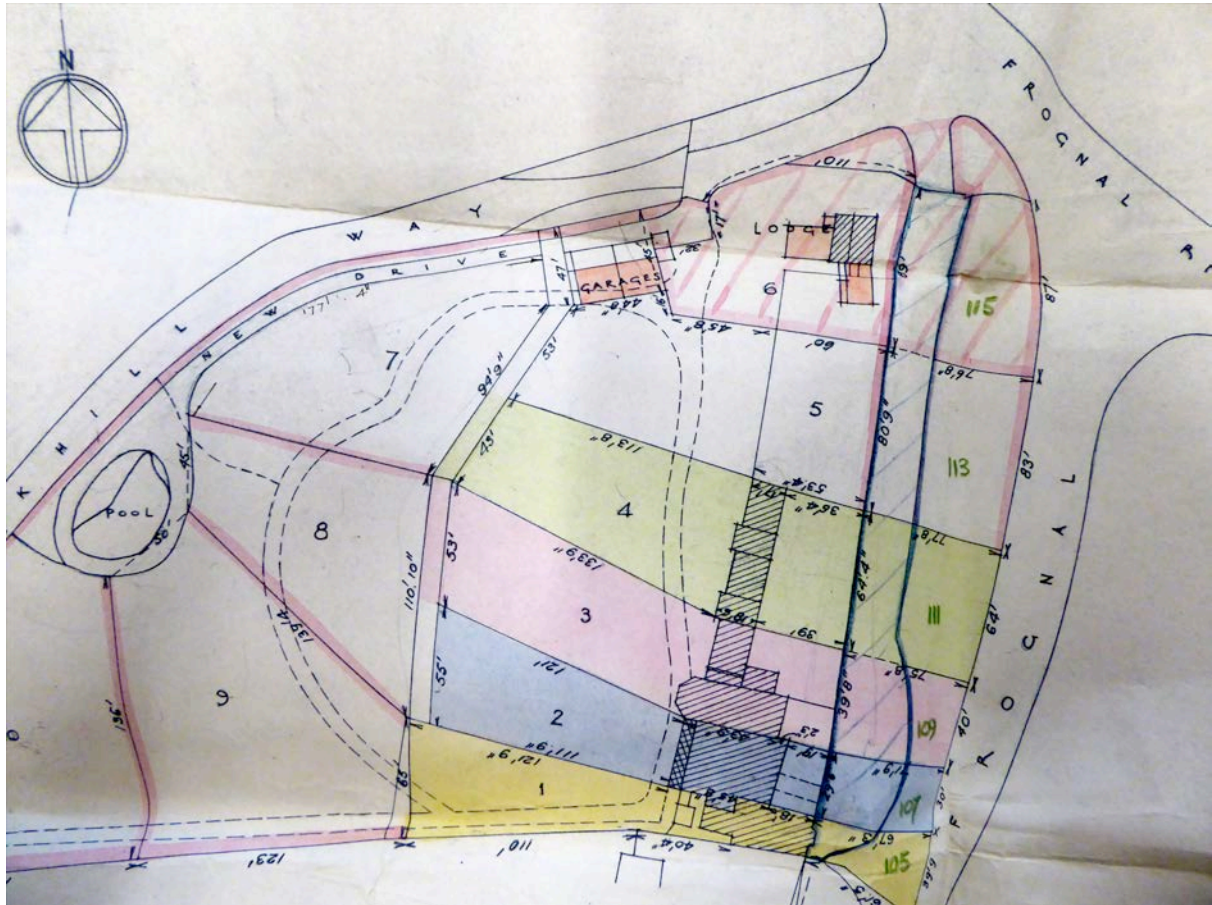
- 2.5 By this period the house had been renamed as Montagu House, after Edward Montagu, a Master in Chancery and a longstanding tenant in the late 18th and early 19th century. In the mid-19th century, the south-east wing (No. 105) was raised to three storeys in height by GE Street, who also added a porch and veranda to the west front. Later in the same century, the other (north-west) wing was extended and largely rebuilt, including the addition of a large bay-windowed drawing room. In the same period the stable range (No. 111) was largely rebuilt. In 1926 Frognal Grove was acquired by Mr and Mrs Ernest Joseph, who remodelled the north-west wing, including the replacement of the bay window with a larger, 5-light canted bowed bay.³ Having completely escaped any bombing during the war, and possibly in response to a first appraisal of the house in *Country Life* in 1949, Frognal Grove was listed grade II* in August 1950. At this date the house was still occupied by one family, although a subsequent amendment to the listing (the present one) identifies what components this comprised:

³ The foregoing has been derived principally from T F T Baker, Diane K Bolton and Patricia E C Croot, 'Hampstead: Frognal and the Central Demesne', in *A History of the County of Middlesex: Volume 9, Hampstead, Paddington*, ed. C R Elrington (London, 1989), pp. 33-42. British History Online <http://www.british-history.ac.uk/vch/middx/vol9/pp33-42> [accessed 10 April 2016]; Cherry, B and Pevsner, N 1998 *The Buildings of England. London 4: North*. London: Penguin, p. 230; List description for 'Frognal Grove including former Stable range, 105-111, Frognal (list entry no. 1113081); Gordon Nares, 'Frognal Grove, Hampstead: The Home of Mr. and Mrs. Ernest M. Joseph', *Country Life*, 24 June 1949, pp 1502-06; 'Frognal Grove, Hampstead. Architect: Melville Seth-Ward', *The Architects' Journal*, 9 December 1054, 711-14

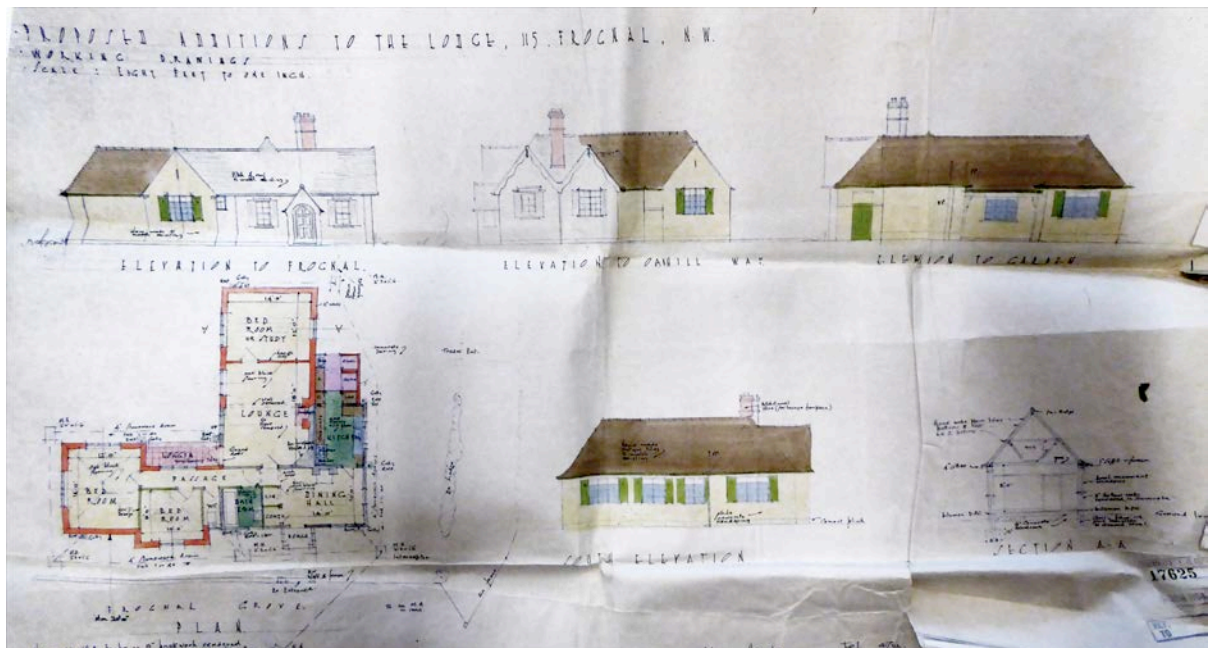
Nos 105-111 Frognal, including the former stable range, No. 111.). The Lodge (No. 115) was not included within the listing.

- 2.6 In the early 1950s, Frognal Grove was acquired by Robert Hart & Sons Ltd, a local firm of developers. In 1953 this firm submitted an application under the Town and Country Planning Act, 1947, to subdivide the existing house and stable block (by then used as garages) into four separate, self-contained houses; make additions to the Lodge; and build new garages. The appointed architects were Melville Seth-Ward and Partners, a longstanding firm based in Rickmansworth, Hertfordshire. Undertaken in 1954-c1957, and bounded to the east, north and west by Frognal, Frognal Rise and Oakhill Way, the extensive development resulted in three houses from the main house-block, a fourth from the stables and gardener's cottage, and a fifth from what was formerly the lodge. Because permission was not granted for the widening of the approach lane to the back gardens or for new turnabouts, new detached garages had to be built to serve some of the properties. All of the new houses were provided with gardens, and in addition, five building plots were made available for development by other architectural firms.
- 2.7 In the late 1950s and early 1960s, the five new building plots were developed. These included No. 113 Frognal (a Neo-Georgian house by Claud Phillimore and Aubrey Jenkins, architects); No. 3 Oak Hill Way (by Trevor Dannatt); No. 5 Oak Hill Way (by Peter Dunham, Widdup & Harrison, architects); and No. 7 Oak Hill Way (by Andrew Renton and Associates). Following the conversion work by Melville Seth-Ward and Partners, in 1960 the owners of No. 111 Frognal enlisted Alison & Peter Smithson to extend the property.⁴

4



Plan dated December 1953 by Melville Seth-Ward and Partners showing subdivision of Frognal Grove and grounds into 10 plots, five of which were to be developed by them as conversions of the original house, stables and lodge (Nos 1-4 and 6) , and five of which were to be developed by other architectural firms (Nos 5, and 7-10). LMA GLC/AR/BR/06/088034



Melville Seth-Ward and Partners's early proposals (undated, but LCC-stamped 5 January 1954) for extending and adapting The Lodge. LMA GLC/AR/BR/06/088034

115 Frognal

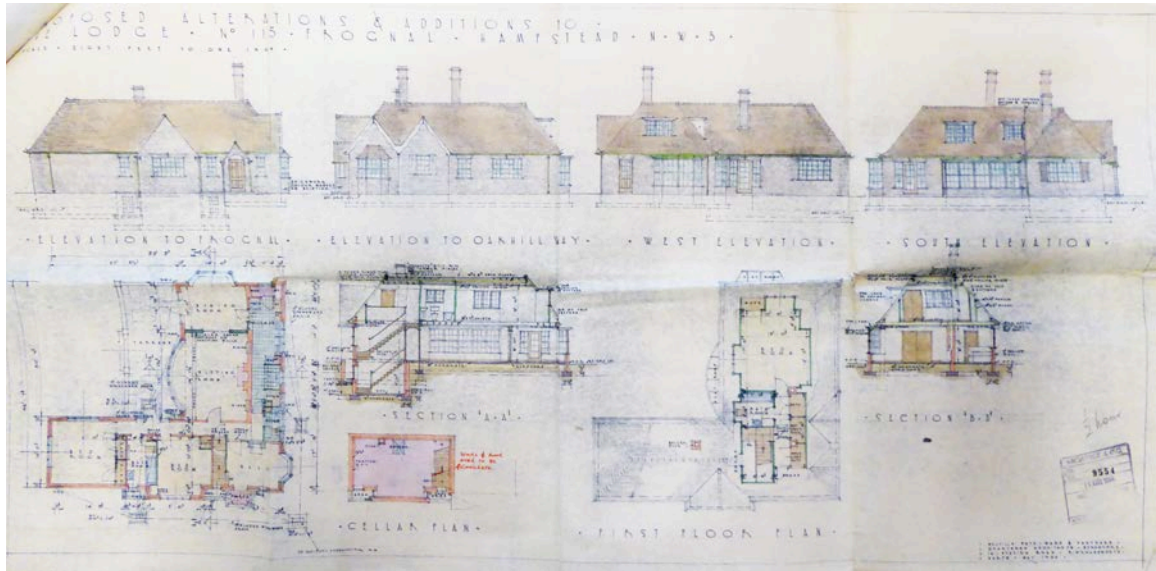
- 2.8 The original intention of Melville Seth-Ward and Partners *vis-à-vis* the former Lodge was to extend westwards and southwards from the original Flitcroft (or possibly earlier) structure, creating a large L-plan building that maintained the original single-storey height. Plans from late 1953 show a hipped and gable-roofed bungalow with a faintly cottage orné appearance, executed in 'Snowcrete' cement rendering (a white Portland cement), and handmade antique roof tiles, designed to match or blend with the original fabric. Amended plans of May 1954 show a larger, part two-storey dwelling, with a small cellar, large terrace and a sitting room lit by a canted bowed bay window. This was granted approval in September 1954. Yet curiously, the house as built was entirely different to that depicted in either set of plans, being much larger and of a different plan-form and orientation. Speculatively, a third set of plans for this larger building were submitted and authorised, although these, and the accompanying correspondence have been

lost. Equally speculatively, the reason for the last-minute change of design may have been because of a realisation on the part of the developer/and or architects that the original Flitcroft (or possibly earlier) Lodge was not included in the Frogna1 Grove listing, and therefore could be demolished. A larger, new-build property was more valuable in property-investment terms than an enlarged, single-storey historic building.

- 2.9 The three-storey Neo-Georgian house standing at No. 115 Frogna1 was almost certainly erected in 1956-57, since a surviving letter of April 1959 from Vigers & Co. to the LCC begins 'This property was built between two and three years ago and unfortunately defects have developed in the parapet walls...'.⁵ However, it remains unclear whether it was this firm of Chartered Surveyors and Architects, or Melville Seth-Ward and Partners, that designed the house. The latter seems more likely. In the late 1960s or early 1970s, the house was further extended, with a single-storey 'garden room'/roof terrace added to the east gable end, and a larger, single-storey library added to the west gable end.⁶

⁵ Correspondence contained within LMA GLC/AR/BR/06/088034

⁶ See Appendix 1, p.11 and Appendix 4, p. 20.



Melville Seth-Ward and Partners's reworked proposals (dated May 1954; LCC-stamped 11 August 1954) for extending and adapting The Lodge. Like earlier plans, these were wholly abandoned. LMA GLC/AR/BR/06/088034



Front (south) elevation of No. 115 Frognal, erected in 1956-7, probably to designs by Melville Seth-Ward and Partners. The single-storey extension - now a library - was added in the late 1960s or early 1970s.

The heritage context of 115 Frognal

- 2.10 115 Frognal located in the Branch Hill/Oak Hill sub-area (sub area 6) of the Hampstead Conservation Area (See Appendix E). The conservation area was first designated in 1968 and subsequently extended on many occasions. The current conservation area appraisal was published in October 2002. 115 Frognal is identified as making a neutral contribution to the conservation area. In the conservation area appraisal mapping, No. 4 Oak Hill Way is identified as making a positive contribution to the conservation area, as does 1-5 Branch Hill
- 2.11 The Grade II former gate lodge to Branch Hill House from 1868 and attributed to SS Teulon, is due north of 115 Frognal. The Grade II villa called Frognal Rise is north east. Both are approximately 60 metres from 115 Frognal.
- 2.12 Branch Hill Woodland is included in the Council's Local List.

The relevant heritage assets

- 2.13 In terms of the assessment of the proposals for 115 Frognal the heritage assets most relevant to considering the effect of the scheme are the Hampstead Conservation Area and the two nearby listed buildings. The effect to be assessed is on the setting of the listed buildings and the character and appearance of the conservation area.

Assessing heritage significance: definitions

- 2.14 The Hampstead Conservation Area and nearby listed buildings are 'designated heritage assets', as defined by the National Planning Policy Framework (the NPPF). Locally listed buildings or features are 'non-designated heritage assets'.
- 2.15 Heritage 'significance' is defined in the NPPF as 'the value of a heritage asset to this and future generations because of its heritage interest. That interest may be archaeological, architectural, artistic or historic'. The Historic England 'Historic Environment Good Practice

Advice in Planning Note 2' puts it slightly differently – as 'the sum of its architectural, historic, artistic or archaeological interest'.

- 2.16 'Conservation Principles, Policies and Guidance for the sustainable management of the historic environment' (English Heritage, 2008) describes a number of 'heritage values' that may be present in a 'significant place'. These are evidential, historical, aesthetic and communal value.

The heritage significance of 115 Frognal

- 2.17 There is no historic core or fabric to the 1956-57 house,⁷ and the overall architectural and historic interest of No. 115 Frognal is low. Stylistically, its Neo-Georgian exterior was extremely retardataire for the period, and a somewhat bland choice for the area, given its rich historical associations, and the more spirited, contemporary architecture displayed by some of the neighbouring houses, such as No. 3 Oak Hill Way (by Trevor Dannatt) and No. 111 Frognal (remodelled by Alison & Peter Smithson). Such buildings followed in the wake of Connell, Ward & Lucas's No. 66 Frognal, which along with Maxwell Fry's earlier, but less conspicuous, Sun House, spearheaded the Modern movement in Hampstead, adding diversity and vigour to the village-scape.⁸ The building seems to have been wholly ignored by the contemporary architectural and building press, and subsequent literature on mid-20th century architecture and topographical history similarly disregards it, including *The Buildings of England*. Unlike many buildings within this sub-area of the Hampstead Conservation Area, is not marked as a building that makes a 'positive contribution'.⁹

⁸ On this note, an appraisal of the restoration of No. 66 Frognal in the early 2000s noted 'One registers too what a contribution No 66 makes in urban terms. Frognal, with its red-brick Victorian (à la Norman Shaw) and overblown Neo-Georgian is a far from homogenous street, and this revived early Modern just enriches the mix'. Andrew Mead, 'In the Modern World', *The Architects' Journal*, 24 March 2005, p. 32

⁹ See Appendix 5, p. 28

2.18 The architectural firm that most likely designed it, Melville Seth-Ward and Partners, was formed in 1937, following the death of one of Charles Melville Seth-Ward's partners, Montague Wheeler, in 1937. Charles Melville Seth-Ward (1868-1946) was the common thread, and leading figure, within a number of architectural practices spanning the late Victorian to late inter-war eras (including Harrison & Seth-Ward, 1898-1925 and Seth-Ward Hoare & Wheeler, 1933-35) and in that period had achieved some success in designing historicist country houses, golf clubs, cinemas and public houses.¹⁰ Charles Melville Seth-Ward, who had trained in the office of Sir Ernest Newton, died in 1946, and his surviving firm was not only uncomfortably dated in the post-war period, but lacking its original creative talent. He was succeeded by CW Eastwick and JW Drake (probably Jack William Drake);¹¹ the firm Melville Seth-Ward and Partners survives today, based in St Albans, yet its work seems to largely involve house extensions in the St Albans Area, rather than large, new-build projects.¹²

Conclusion

2.19 Our historical research confirms the assessment of the 2002 conservation area appraisal that the building makes no more than a neutral contribution to the Hampstead Conservation Area. It is an unremarkable design for its time, prepared by an architectural firm with no particular reputation, and who, by the 1950s, had lost its relatively minor founding figure. The specific house at 115 Frognal therefore does not have any notable associations in itself, by way of a designer or occupant, and is not a significant architectural design. It has low heritage significance.

¹⁰ See Appendix 6, p. 23

¹¹ Biographical information from RIBA Biographical files on Charles Melville Seth-Ward (1868-1946), Montague Wheeler (1874-1937), and William Henry Harrison (d.1925).

¹² See

https://www.stalbans.gov.uk/Images/Planning%20Applications%20and%20Decisions%20-%20we%2021st%20June%202013_tcm15-35780.pdf

3 The policy context

Introduction

- 3.1 This section of the report briefly sets out the range of national and local policy and guidance relevant to the consideration of change in the historic built environment.
- 3.2 Section 5 demonstrates how the proposed development complies with statute, policy and guidance. Not all the guidance set out in this section is analysed in this manner in Section 5: some of the guidance set out below has served as a means of analysing or assessing the existing site and its surrounding, and in reaching conclusions about the effect of the proposed development.

The Planning (Listed Buildings and Conservation Areas) Act 1990

- 3.3 The legislation governing listed buildings and conservation areas is the Planning (Listed Buildings and Conservation Areas) Act 1990 ('the Act'). Section 66(1) of the Act requires decision makers 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' when determining applications which affect a listed building or its setting. Section 72(1) of the Act requires decision makers with respect to any buildings or other land in a conservation area to pay 'special attention... to the desirability of preserving or enhancing the character or appearance of that area'.
- 3.4 Appendix G sets out our understanding of the process by which sections 66(1) and section 72(1) of the Act are applied by decision makers in conjunction with the National Planning Policy Framework.

The National Planning Policy Framework

- 3.5 Paragraph 56 of the NPPF says that 'the Government attaches great importance to the design of the built environment. Good design is a key aspect of sustainable

development, is indivisible from good planning, and should contribute positively to making places better for people’.

3.6 Paragraph 60 says:

Planning policies and decisions should not attempt to impose architectural styles or particular tastes and they should not stifle innovation, originality or initiative through unsubstantiated requirements to conform to certain development forms or styles. It is, however, proper to seek to promote or reinforce local distinctiveness.

3.7 Paragraph 61 continues:

Although visual appearance and the architecture of individual buildings are very important factors, securing high quality and inclusive design goes beyond aesthetic considerations. Therefore, planning policies and decisions should address the connections between people and places and the integration of new development into the natural, built and historic environment.

3.8 Paragraph 63 says that ‘In determining applications, great weight should be given to outstanding or innovative designs which help raise the standard of design more generally in the area’.

1.1 The NPPF says at Paragraph 128 that:

In determining applications, local planning authorities should require an applicant to describe the significance of any heritage assets affected, including any contribution made by their setting. The level of detail should be proportionate to the assets’ importance and no more than is sufficient to understand the potential impact of the proposal on their significance.

3.9 A description and analysis of the heritage significance of 115 Frognal and its context is provided earlier in this report.

3.10 The NPPF also requires local planning authorities to ‘identify and assess the particular significance of any heritage asset that may be affected by a proposal

(including by development affecting the setting of a heritage asset) taking account of the available evidence and any necessary expertise. They should take this assessment into account when considering the impact of a proposal on a heritage asset, to avoid or minimise conflict between the heritage asset's conservation and any aspect of the proposal'.

3.11 At Paragraph 131, the NPPF says that:

In determining planning applications, local planning authorities should take account of:

- *the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation;*
- *the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and*
- *the desirability of new development making a positive contribution to local character and distinctiveness.*

3.12 Paragraph 132 advises local planning authorities that '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. The more important the asset, the greater the weight should be. Significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting'.

3.13 The NPPF says at Paragraph 133 'Good design ensures attractive, usable, durable and adaptable places and is a key element in achieving sustainable development. Good design is indivisible from good planning.' Paragraph 133 says:

Where a proposed development will lead to substantial harm to or total loss of significance of a designated heritage asset, local planning authorities should refuse consent, unless it can be demonstrated that the substantial harm or loss is necessary to achieve

substantial public benefits that outweigh that harm or loss, or all of the following apply:

- *the nature of the heritage asset prevents all reasonable uses of the site; and*
- *no viable use of the heritage asset itself can be found in the medium term through appropriate marketing that will enable its conservation; and*
- *conservation by grant-funding or some form of charitable or public ownership is demonstrably not possible; and*
- *the harm or loss is outweighed by the benefit of bringing the site back into use.*

3.14 Paragraph 134 says that ‘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 securing its optimum viable use.

3.15 Further advice within Section 12 of the NPPF urges local planning authorities to take into account the effect of an application on the significance of a non-designated heritage asset when determining the application. It says that ‘In weighing applications that affect directly or indirectly non designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset’.

3.16 Paragraph 137 of the NPPF advises local planning authorities to ‘look for opportunities for new development within Conservation Areas and World Heritage Sites and within the setting of heritage assets to enhance or better reveal their significance. Proposals that preserve those elements of the setting that make a positive contribution to or better reveal the significance of the asset should be treated favourably’.

3.17 Paragraph 138 says that:

Not all elements of a World Heritage Site or Conservation Area will necessarily contribute to its significance. Loss of a building (or other element) which makes a positive contribution to the significance of the Conservation Area or World Heritage Site should be treated either as substantial harm under paragraph 133 or less than substantial harm under paragraph 134, as appropriate, taking into account the relative significance of the element affected and its contribution to the significance of the Conservation Area or World Heritage Site as a whole.

Planning Practice Guidance

3.18 In 2014 the government published new streamlined planning practice guidance for the National Planning Policy Framework and the planning system. It includes guidance on matters relating to protecting the historic environment in the section entitled 'Conserving and Enhancing the Historic Environment'. It is subdivided into sections giving specific advice in the following areas:

- Historic Environment Policy and Legislation
- Heritage in Local Plans
- Decision-taking: Historic Environment
- Designated Heritage Assets
- Non-Designated Assets
- Heritage Consent Processes and
- Consultation Requirements

Historic England's Good Practice Advice in Planning Notes

3.19 The NPPF incorporates many of the essential concepts in Planning Policy Statement 5 'Planning for the Historic Environment'. PPS5 was accompanied by a 'Planning for the Historic Environment Practice Guide', published by English Heritage 'to help practitioners implement the

policy, including the legislative requirements that underpin it'. In the light of the introduction of the NPPF, Good Practice Advice notes 1, 2 and 3 supersede the PPS 5 Practice Guide, which was withdrawn on 27 March 2015. These notes are:

- Historic Environment Good Practice Advice in Planning Note 1: The Historic Environment in Local Plans
- Historic Environment Good Practice Advice in Planning Note 2: Managing Significance in Decision-Taking in the Historic Environment
- Historic Environment Good Practice Advice in Planning Note 3: The Setting of Heritage Assets

The London Plan

- 3.20 The London Plan 2016 (consolidated with alterations since 2011) is the current the spatial development strategy for London. This document, published in March 2016, is consolidated with all the alterations to the London Plan since 2011. It contains various policies relating to architecture, urban design and the historic built environment.
- 3.21 Policy 7.4 deals with 'Local character', and says that a development should allow 'buildings and structures that make a positive contribution to the character of a place, to influence the future character of the area' and be 'informed by the surrounding historic environment'.
- 3.22 Policy 7.8 deals with 'Heritage assets and archaeology', and says:
- A London's heritage assets and historic environment, including listed buildings, registered historic parks and gardens and other natural and historic landscapes, conservation areas, World Heritage Sites, registered battlefields, scheduled monuments, archaeological remains and memorials should be identified, so that the desirability of sustaining and enhancing their significance*

and of utilising their positive role in place shaping can be taken into account.

B Development should incorporate measures that identify, record, interpret, protect and, where appropriate, present the site's archaeology.

C Development should identify, value, conserve, restore, re-use and incorporate heritage assets, where appropriate.

D Development affecting heritage assets and their settings should conserve their significance, by being sympathetic to their form, scale, materials and architectural detail.

E New development should make provision for the protection of archaeological resources, landscapes and significant memorials. The physical assets should, where possible, be made available to the public on-site. Where the archaeological asset or memorial cannot be preserved or managed on-site, provision must be made for the investigation, understanding, recording, dissemination and archiving of that asset.

3.23 Policy 7.9 deals with 'Heritage-led regeneration', and says:

A Regeneration schemes should identify and make use of heritage assets and reinforce the qualities that make them significant so they can help stimulate environmental, economic and community regeneration. This includes buildings, landscape features, views, Blue Ribbon Network and public realm.

B The significance of heritage assets should be assessed when development is proposed and schemes designed so that the heritage significance is recognised both in their own right and as catalysts for regeneration. Wherever possible heritage assets (including buildings at risk) should be repaired, restored and put to a suitable and viable use that is consistent with their conservation and the establishment and maintenance of sustainable communities and economic vitality.

Camden Council's Local Development Framework

3.24 Camden Council adopted its Core Strategy and Development Policies on 8 November 2010. Core Strategy Policy CS14 deals with 'Promoting high quality places and conserving our heritage' and says:

'The Council will ensure that Camden's places and buildings are attractive, safe and easy to use by:

a) requiring development of the highest standard of design that respects local context and character;

b) preserving and enhancing Camden's rich and diverse heritage assets and their settings, including conservation areas, listed buildings, archaeological remains, scheduled ancient monuments and historic parks and gardens;

c) promoting high quality landscaping and works to streets and public spaces;

d) seeking the highest standards of access in all buildings and places and requiring schemes to be designed to be inclusive and accessible;

e) protecting important views of St Paul's Cathedral and the Palace of Westminster from sites inside and outside the borough and protecting important local views'.

3.25 The commentary to the policy says:

'Our overall strategy is to sustainably manage growth in Camden so it meets our needs for homes, jobs and services in a way that conserves and enhances the features that make the borough such an attractive place to live, work and visit. Policy CS14 plays a key part in achieving this by setting out our approach to conserving and, where possible, enhancing our heritage and valued places, and to ensuring that development is of the highest standard and reflects, and where possible improves, its local area'

3.26 It goes on to say

'Development schemes should improve the quality of buildings, landscaping and the street environment and,

through this, improve the experience of the borough for residents and visitors'

3.27 Regarding Camden's heritage, the Core Strategy refers to Policy DP25 in Camden Development Policies as providing more detailed guidance on the Council's approach to protecting and enriching the range of features that make up the built heritage of the borough.

3.28 Policy DP25 is as follows:

Conservation areas

In order to maintain the character of Camden's conservation areas, the Council will:

- a) take account of conservation area statements, appraisals and management plans when assessing applications within conservation areas;*
- b) only permit development within conservation areas that preserves and enhances the character and appearance of the area;*
- c) prevent the total or substantial demolition of an unlisted building that makes a positive contribution to the character or appearance of a conservation area where this harms the character or appearance of the conservation area, unless exceptional circumstances are shown that outweigh the case for retention;*
- d) not permit development outside of a conservation area that causes harm to the character and appearance of that conservation area; and*
- e) preserve trees and garden spaces which contribute to the character of a conservation area and which provide a setting for Camden's architectural heritage.*

Listed buildings

To preserve or enhance the borough's listed buildings, the Council will:

- e) prevent the total or substantial demolition of a listed building unless exceptional circumstances are shown that outweigh the case for retention;*

f) only grant consent for a change of use or alterations and extensions to a listed building where it considers this would not cause harm to the special interest of the building; and

g) not permit development that it considers would cause harm to the setting of a listed building.

Archaeology

The Council will protect remains of archaeological importance by ensuring acceptable measures are taken to preserve them and their setting, including physical preservation, where appropriate.

Other heritage assets

The Council will seek to protect other heritage assets including Parks and Gardens of Special Historic Interest and London Squares.

4 The proposed scheme and its effect

Introduction

- 4.1 The proposed scheme for 115 Frognal is illustrated in the drawings of Mark Ruthven Architects, and described in the accompanying Design & Access Statement.
- 4.2 This section of the report briefly describes the proposed scheme and its effect on the heritage significance described earlier.

The proposed scheme

- 4.3 It is proposed to replace the existing house at 115 Frognal with a new house in a contemporary style. The proposed house will occupy a larger footprint than the existing house, but will be no higher than the ridge of the existing house. While occupying a greater footprint, the proposed house will nonetheless be positioned and massed in a way that echoes the disposition of the existing house. Its principal elevation and its principal volume will be as the existing house -facing north across Oak Hill Way. Its main volume will be similar to that of the existing building.
- 4.4 The eastern wing of the house, extending southwards, will be set back behind the eastern extent of the main range of the house, and set in from the 'lime walk' running south. Similarly the garage and gymnasium wing will be angled away from the main range to address the geometry of Oak Hill Way, and set considerably back from the main façade of the house.
- 4.5 Both wings of the house will echo the subservient demeanour of the extensions to the present house: they will be lesser in height, stepping down from the main range. On the 'lime walk', the first part of this wing will be inset on plan and set slightly below the parapet height of the main range, and will be approximately the same height as the parapet of 113 Frognal. The next section, stepping down and towards 113 Frognal and set further in from the 'lime walk', will be single storey.

Evolution of the design

- 4.6 The proposed scheme has been modified following pre-application discussions with the Council, and the evolution of the design is described in the Design & Access Statement. The uppermost level of the original scheme has been removed, and the scheme is now two storeys in height. A fundamental change has been made in the choice of materials – the current scheme uses brick as its principal material, with stone used a subsidiary highlight material. These are materials that are found in and characteristic of the Hampstead Conservation Area. The fenestration has been harmonised, and various other amendments to the design have been made, as suggested by officers.

The effect on heritage assets

- 4.7 Though the main range of the house will be more contemporary in appearance than the existing house, it will preserve the sense of formality and order present in the language of the existing house. It has a central projecting entrance volume that extends the full height of the proposals, acting a focal point in the main elevation.
- 4.8 The proposed house will principally use brick and stone as its facing materials. These materials are a feature of the conservation area and their use will help ground the contemporary design in its context. High quality metal will be used for fenestration.
- 4.9 The new house will ‘know its place’ in the conservation area and in the setting of the heritage assets nearby. It will not dominate its surroundings, but will instead take its place in a varied architectural setting in a respectful manner. It will replace a house that is neutral in the conservation area with a new building that seeks to respect the qualities of its environment while using a contemporary architectural language. The scale and massing of the proposal is considered and deferential - it responds in detail to the immediate circumstances of the

site, reducing its visual and physical effect on its neighbours by stepping and set-backs. The scheme will continue in the 21st century the tradition of new house building in Hampstead that is a key aspect of the character and appearance of the conservation area, but will do so by acknowledging that character and appearance. The proposed scheme has the potential to enhance the Hampstead Conservation Area by virtue of the quality of its design.

Conclusion

- 4.10 For the reasons given above, we conclude that the proposed scheme for 115 Frognal will, at the very least, preserve the character and appearance of the Hampstead Conservation Area and the setting of the nearby listed buildings. In our view, the scheme goes beyond this - it will enhance the Hampstead Conservation Area with a high quality development that replaces a mundane and generic post-war house with a new house that achieves an exemplary standard of architectural design.

5 Compliance with legislation, policy and guidance

- 5.1 This report has provided a detailed description and analysis of the significance of 115 Frognal and its heritage context, as required by Paragraph 128 of the National Planning Policy Framework. In addition, the report also describes (in Section 4 ‘the proposed development and its effect’) how the proposed scheme will affect that heritage significance. The effect is positive, and for that reason, the scheme complies with policy and guidance. This section should be read with Section 4.

The Planning (Listed Buildings and Conservation Areas) Act 1990

- 5.2 The conclusion of our assessment, contained in the previous section of this report, is that the proposed scheme for 115 Frognal preserves and enhances the character and appearance of the Hampstead Conservation Area, as well as preserving and enhancing the setting of the nearby listed buildings (i.e. the *designated* heritage assets that are the subject of the Act). The proposed development thus complies with S.66(1) and S.72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990. It does not lead to ‘substantial’ harm or any meaningful level of ‘less than substantial’ harm to any heritage assets.
- 5.3 It is important to note that the legal requirement regarding satisfying Section 72(1) of the Act was established by *South Lakeland District Council v Secretary of State for the Environment and another* [1992] 1 ALL ER 573, and is met if the proposed development leaves the conservation area unharmed.
- 5.4 In considering the proposed scheme for 115 Frognal it is worth noting Historic England’s online guidance regarding ‘Legal Requirements for Listed Building and

Other Consents'¹³. English Heritage points out that 'Most of the principles that should be adhered to when making planning and other consent decisions affecting the historic environment are set out in policy and guidance. However, the law introduces some important and inescapable considerations for certain applications'.

5.5 Historic England continues:

When considering any conservation area consent or planning permission decision that affects a conservation area a local planning authority must pay special attention to the desirability of preserving or enhancing the character or appearance of that area....

The House of Lords in the South Lakeland case¹⁴ decided that the "statutorily desirable object of preserving the character or appearance of an area is achieved either by a positive contribution to preservation or by development which leaves character or appearance unharmed, that is to say preserved."

A development that merely maintains the status quo, perhaps by replacing a building that detracts from the character and appearance of the conservation area with a similarly detrimental building, would satisfy the statutory consideration. This is notwithstanding that the existing detrimental building presents an opportunity, when it is being redeveloped, to improve the environment.

However, in a number of ways the policies in the NPPF seek positive improvement in conservation areas. Most explicitly paragraphs 126 and 131 require that local planning authorities should take into account "the desirability of new development making a positive contribution to local character and distinctiveness". Paragraph 9 says that pursuing "sustainable development involves seeking positive improvements in the quality of the...historic environment...". The design policies further

¹³ <http://historicengland.org.uk/advice/hpg/decisionmaking/legalrequirements/>

¹⁴ *South Lakeland District Council v Secretary of State for the Environment and another* [1992] 1 ALL ER 573

reinforce the objective of enhancement of an area's character and local distinctiveness, concluding that "Permission should be refused for development of poor design that fails to take opportunities available for improving the character and quality of an area..." (paragraph 64).

Compliance with both the statutory consideration and the NPPF policies therefore, generally speaking, requires account to be taken of the desirability of taking opportunities to enhance the character and appearance of a conservation area. As such, whilst the South Lakeland case is still relevant to the interpretation of statute, its effect on decision-making has apparently been negated in this respect by the policies in the NPPF.

- 5.6 The key word in the final paragraph of this extract is 'apparently'. This carefully chosen word makes it abundantly clear that it is far from certain that the South Lakeland decision has been definitively altered by the National Planning Policy Framework. One reason is that it, as a legal decision, cannot be altered without a similar decision or legislation that overturns it – policy, even national planning policy guidance, cannot overturn legal decisions such as South Lakeland. Planning decisions are ultimately made in a legal and policy context – not just in a policy context alone.
- 5.7 The conclusion is this: it would be extremely difficult to portray the proposed scheme for 115 Frognal as doing anything less than maintaining the 'status quo' in the Hampstead Conservation Area, given that the site presently – as confirmed in the conservation area appraisal and in pre-application discussions – makes no positive contribution to the conservation area, and the evident quality of architectural design that is present in the proposal. However, and as already stated, it is clear that the proposed scheme goes well beyond preserving the status quo - it positively enhances the Hampstead Conservation Area.

The level of ‘harm’ caused by the proposed scheme

- 5.8 As outlined in Section 4, the NPPF identifies two levels of potential ‘harm’ that might be caused to a heritage asset by a development: ‘substantial harm...or total loss of significance’ or ‘less than substantial’. Both levels of harm must be caused to a *designated* heritage asset – in this instance the setting of nearby listed buildings or the Hampstead Conservation Area.
- 5.9 The proposed scheme would clearly not lead to ‘substantial’ harm or any meaningful level of ‘less than substantial’ harm to designated heritage assets. The conservation area appraisal assesses that the existing building at 115 Frognal makes only a neutral contribution to the Hampstead Conservation Area, and our historical research and analysis confirms this judgement as correct. As a neutral element in the conservation area, its loss would not, by itself, cause any harm to the conservation area.
- 5.10 The only potential for ‘less than substantial’ harm would be if the proposed scheme for 115 Frognal caused the loss of a significant component of the special interest of the Hampstead Conservation Area or the setting of nearby listed buildings. There is nothing about the proposal that would give rise to this level of harm. The appearance and setting of these heritage assets is certainly changed, but that change is positive.

The balance of ‘harm’ versus benefit

- 5.11 In any event, the scheme provides tangible public and heritage benefits in architectural, economic and regeneration terms. The scheme will reinvigorate the Hampstead Conservation Area with a new house of high architectural quality that is appropriate in scale and appearance to its context, replacing an indifferent house that does not contribute positively to the conservation area. This is a specific heritage and townscape-related public benefit; the scheme will also underpin the socio-

economic – i.e. residential - character of the Hampstead Conservation Area within the London Borough of Camden - something linked to the character and appearance of the conservation area - and this is a public benefit.

- 5.12 This more than outweighs what low level of ‘harm’ - if any - that *might* be asserted regarding the scheme. The core special architectural and historic interest of the conservation area and nearby listed buildings is preserved as a result of the proposed scheme.

The National Planning Policy Framework

- 5.13 In respect of Paragraph 131 of the NPPF, the proposed scheme can certainly be described as ‘sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation’. It preserves the special architectural and historic interest of the conservation area.
- 5.14 The proposed scheme complies with Paragraph 133 of the NPPF - it certainly does not lead to ‘substantial harm to or total loss of significance of a designated heritage asset’. It also complies with Paragraph 134 for the reasons given in detail earlier in this report – the scheme cannot be considered to harm the Hampstead Conservation Area or listed buildings, but rather alters the site in a positive way, that preserves overall heritage significance in the vicinity. Any ‘less than substantial harm to the significance of a designated heritage asset’ (Paragraph 134) - if any - that can be ascribed to the scheme is outweighed by the explicit heritage benefit of a scheme that demonstrably preserves the conservation area, and the setting of listed buildings.
- 5.15 It is our view that the proposed scheme cannot reasonably be considered to cause harm to heritage assets when considered against the existing situation. The scheme very definitely strikes the balance suggested by Paragraph 134 of the NPPF – it intervenes in the Hampstead Conservation Area in a manner

commensurate to its significance and to that of nearby listed buildings.

The London Plan

- 5.16 The proposed scheme for 115 Frognal is exactly what the London Plan envisages when it talks (in Policy 7.4) about developments having ‘regard to the form, function and structure of an area, place or street and the scale, mass and orientation of surrounding buildings’. The design of the proposed scheme is inherently responsive to these features, and it is designed to respect the context in which it finds itself. The proposed scheme is of ‘the highest architectural quality’ and includes ‘details and materials that complement... the local architectural character’. The scheme thus complies with Policies 7.4 and 7.6. The proposed scheme adds life and vitality to the setting of heritage assets around it - the ‘desirability of sustaining and enhancing their significance and of utilising their positive role in place shaping’ has been taken into account, as the Design & Access Statement shows, and as pre-application discussions achieved. The scheme clearly ‘conserve[s] the significance of heritage assets], by being sympathetic to their form, scale, materials and architectural detail’. For these reasons, the scheme is consistent with Policy 7.8 of the London Plan.
- 5.17 It is also consistent with Policy 7.9 of the Plan – the ‘significance’ of the heritage assets in its context has been ‘assessed’ and the scheme is ‘designed so that the heritage significance is recognised both in [its] own right and as [a] catalyst for regeneration’.

Camden’s Local Development Framework

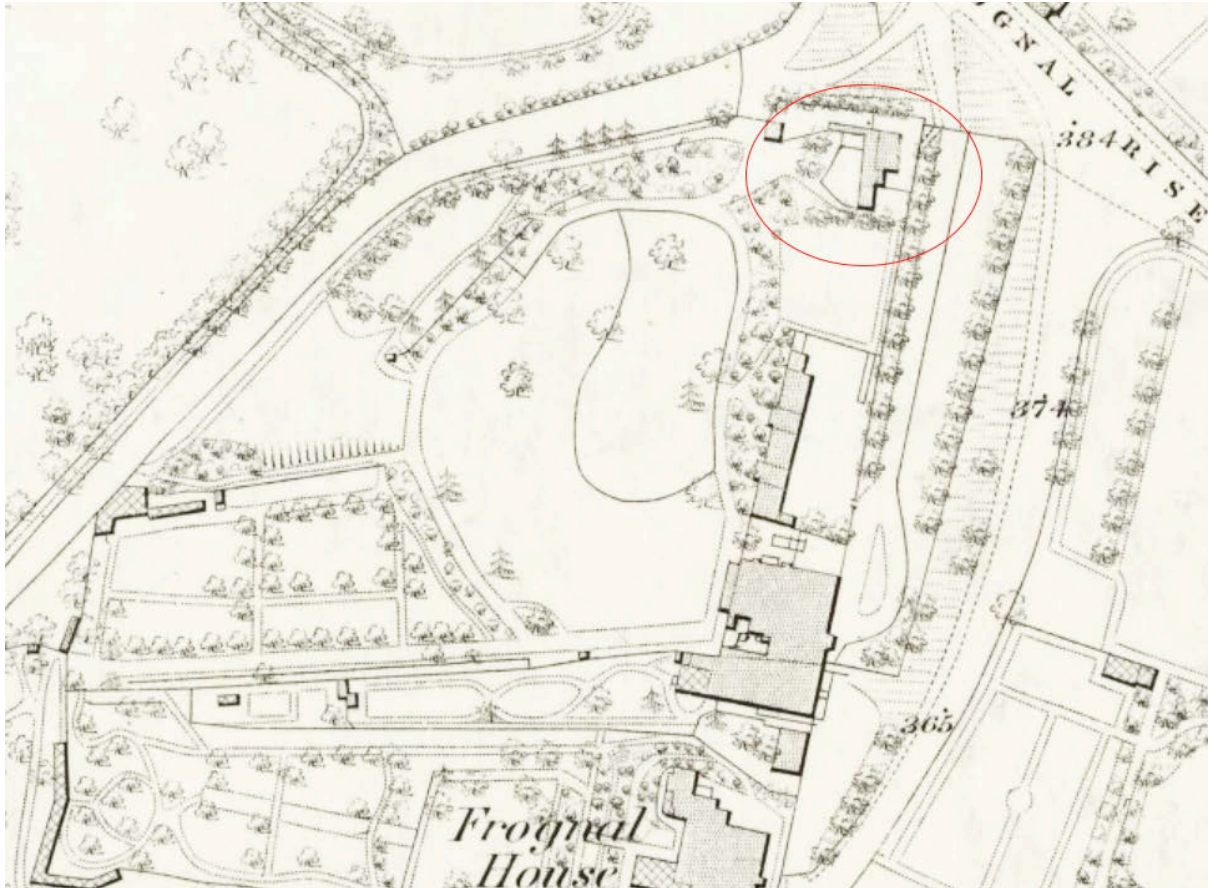
- 5.18 As has been shown, and for the same reasons that are given in respect of the NPPF, the proposed scheme would preserve *and* enhance the Hampstead Conservation Area, nearby listed buildings and other heritage assets.
- 5.19 For these reasons, and those given earlier, the proposed development is consistent with Camden’s Local

Development Framework policies regarding demolition and new development in conservation areas, specifically DP25(b) new development in conservation areas and Policy DP25(g) in relation to the setting of listed buildings.

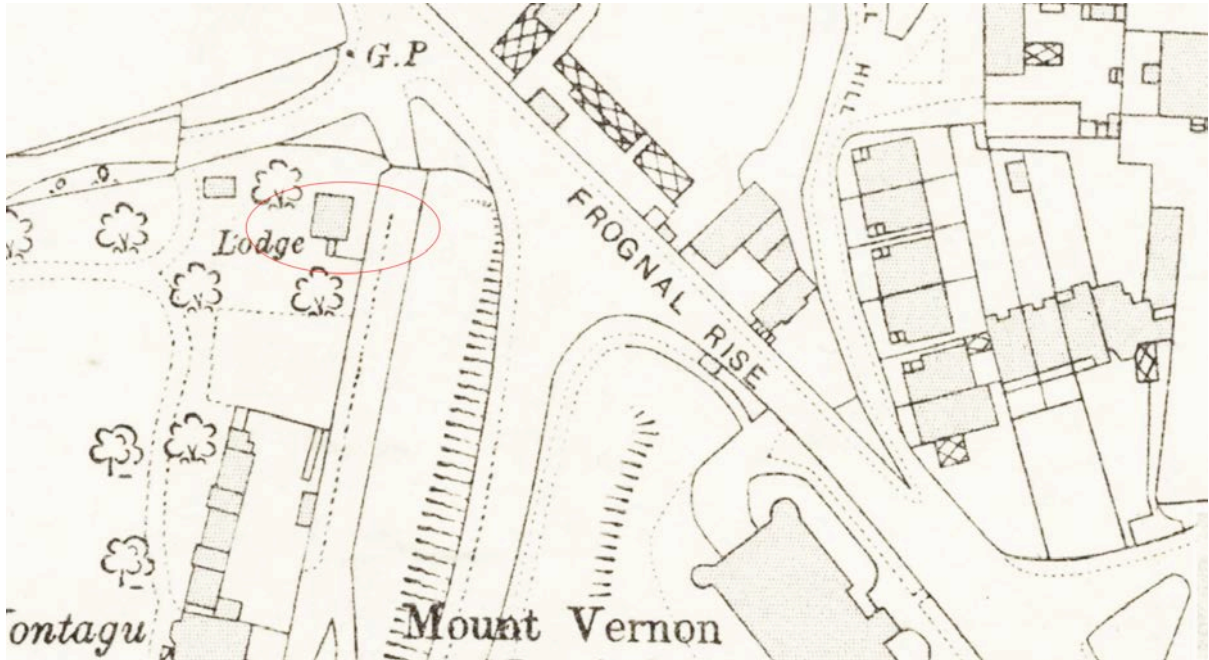
6 Summary and conclusions

- 6.1 The proposed scheme for 115 Frognal will enhance the character and appearance of the Hampstead Conservation Area with a well-designed new house, replacing an indifferent house that makes only a neutral contribution to the conservation area with an imaginative scheme that is appropriate in scale and appearance to its context, and which is better than the existing building on the site. This is a specific heritage and townscape-related public benefit; the scheme will also underpin the socio-economic character of the Hampstead Conservation Area within the London Borough of Camden - something linked to the character and appearance of the conservation area - and this is a public benefit.
- 6.2 The proposed scheme has evolved through pre-applications discussions with officers, and is now an exceptional piece of architecture of exemplary quality - as befits a new development in the Hampstead Conservation Area
- 6.3 The proposed scheme will therefore preserve the character and appearance of the Hampstead Conservation Area, the setting of the two nearby listed buildings and the locally listed Branch Hill Woodland. In our view, the scheme goes beyond this - it will enhance the Hampstead Conservation Area with an excellent new building that, though contemporary in style, is consistent with the character and appearance of the area.
- 6.4 For these reasons, discussed at greater length in the report, the proposed scheme will comply with the law, and national and local policies and guidance for urban design and the historic built environment.

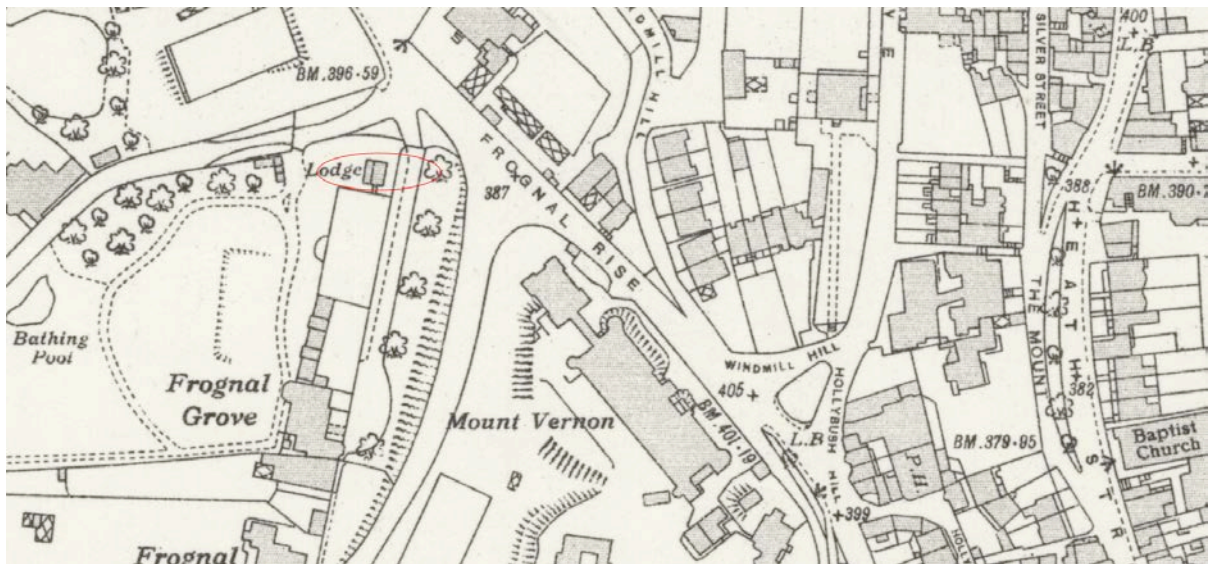
Appendix A: Historical mapping



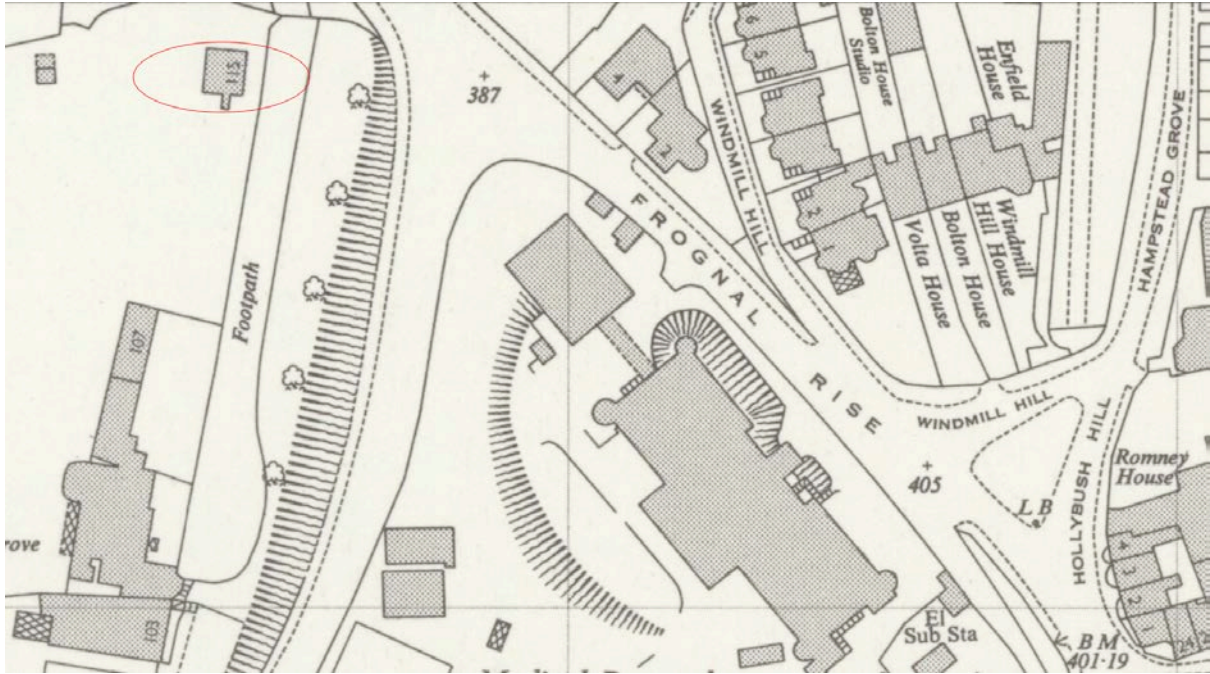
1866 OS map (surveyed), with the former Lodge ringed



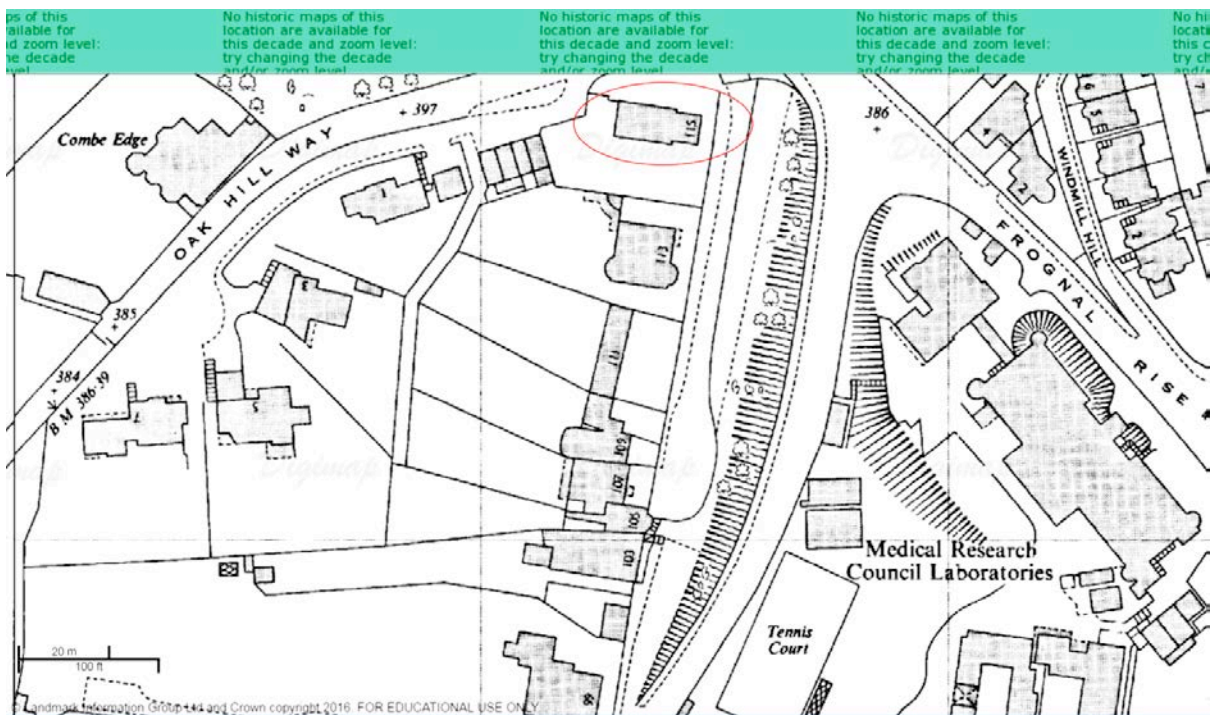
1912 OS map (surveyed), with the former Lodge ringed. Between 1866 and 1912, the lodge appears to have been reduced in size - or possibly entirely rebuilt



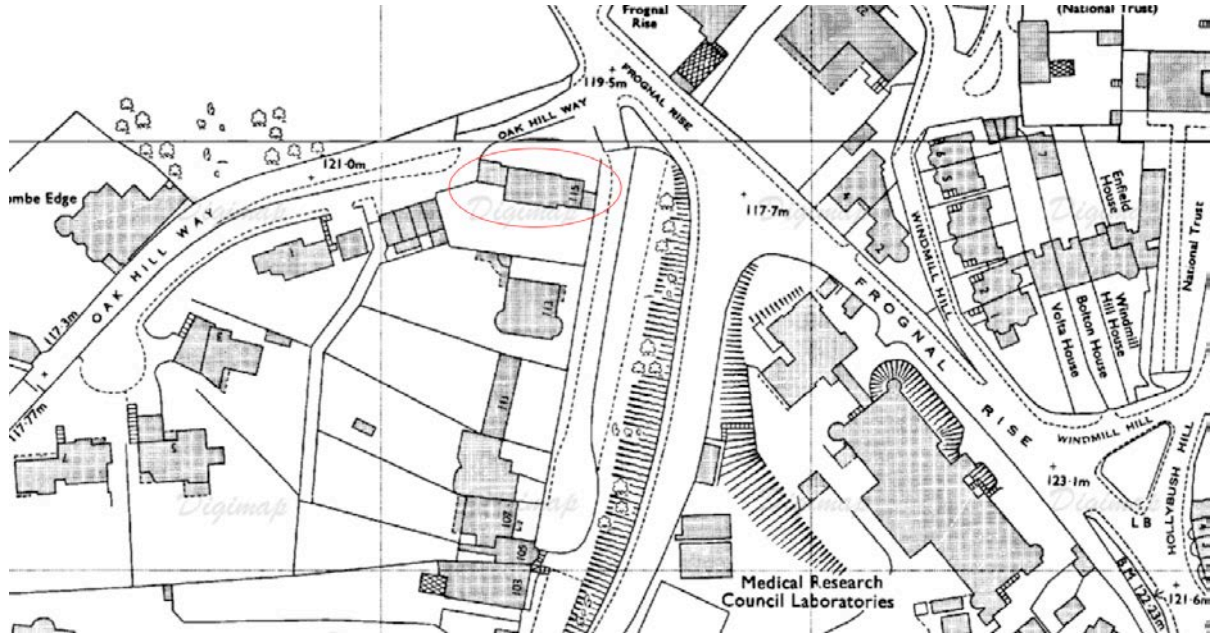
1934 OS map (surveyed). On this map the Lodge is shown subdivided, with a rectangular structure/feature having been built between it and the stables



1953 OS map (surveyed), showing the Lodge for the first time with a street address, No. 115 Frognal. By this date, Melville Seth-Ward and Partners had begun converting Frognal Grove and its stable block into separate properties, although The Lodge was presumably still awaiting redevelopment



1966 OS map (published), with No. 115 Frognal ringed. This depicts the footprint of the existing building, whose alignment and size is different to the lodge that preceded it



1973 OS map (published). By the date this map was surveyed, two wings had been added to the gable ends of No. 115 Frognal



2016 OS map

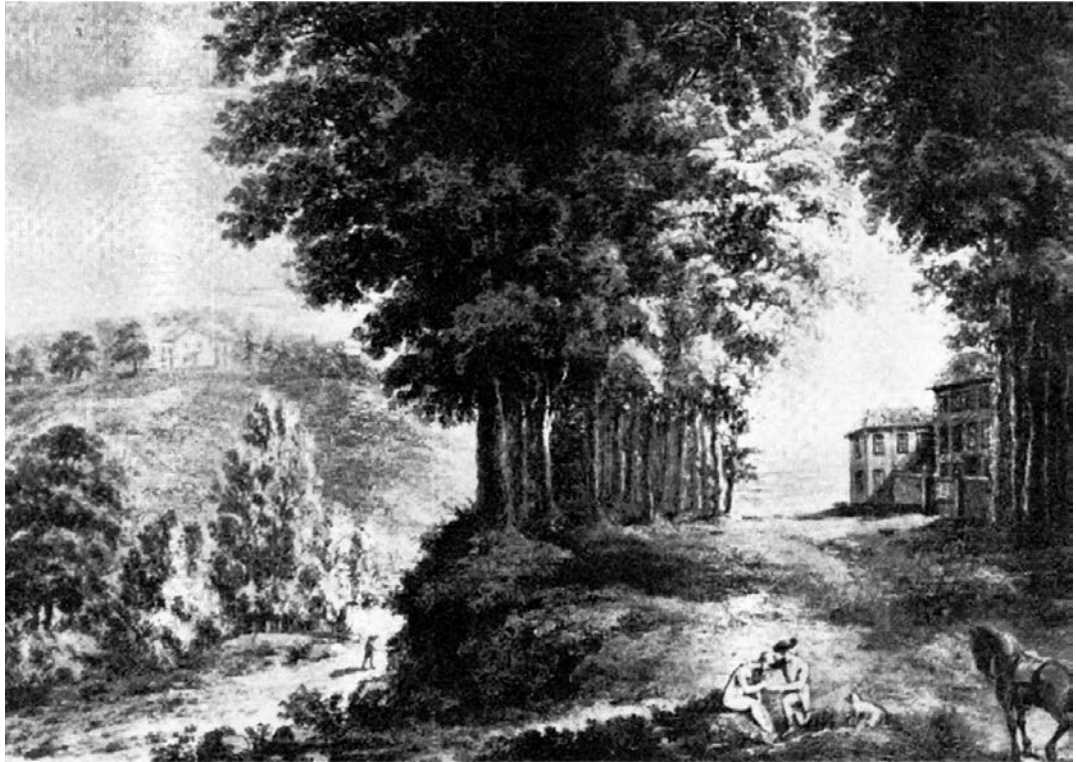
Appendix B: Historical images



The west or garden front of Frognal Rise in c.1949, shortly before its conversion into separate properties. (*Country Life*, 24 June 1949)



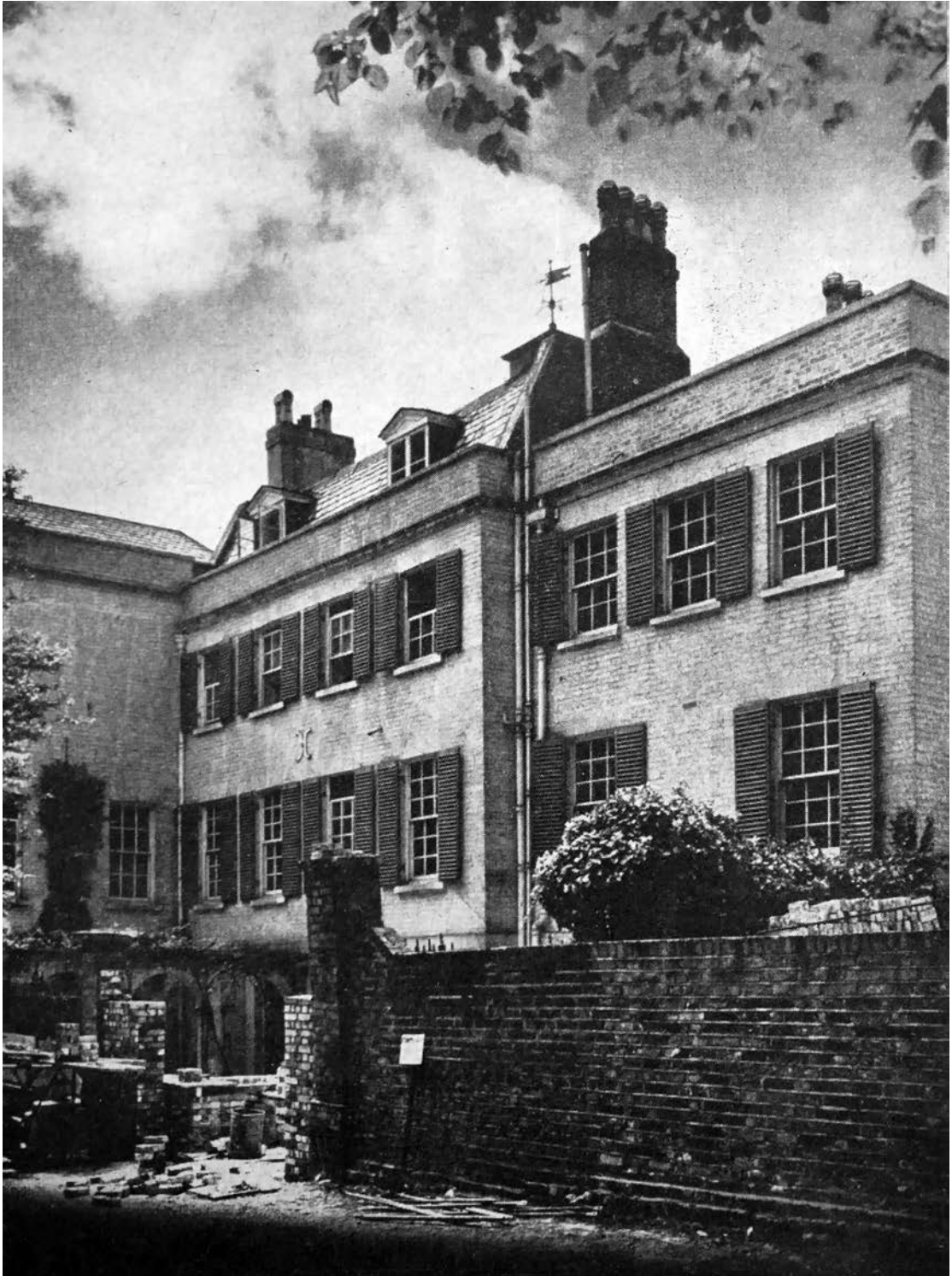
The stable range with cobbled yard in c.1949, shortly before conversion for residential use (No. 111 Frognal). At this time, and probably since the later Edwardian period, the stables had served as garages. (*Country Life*, 24 June 1949).



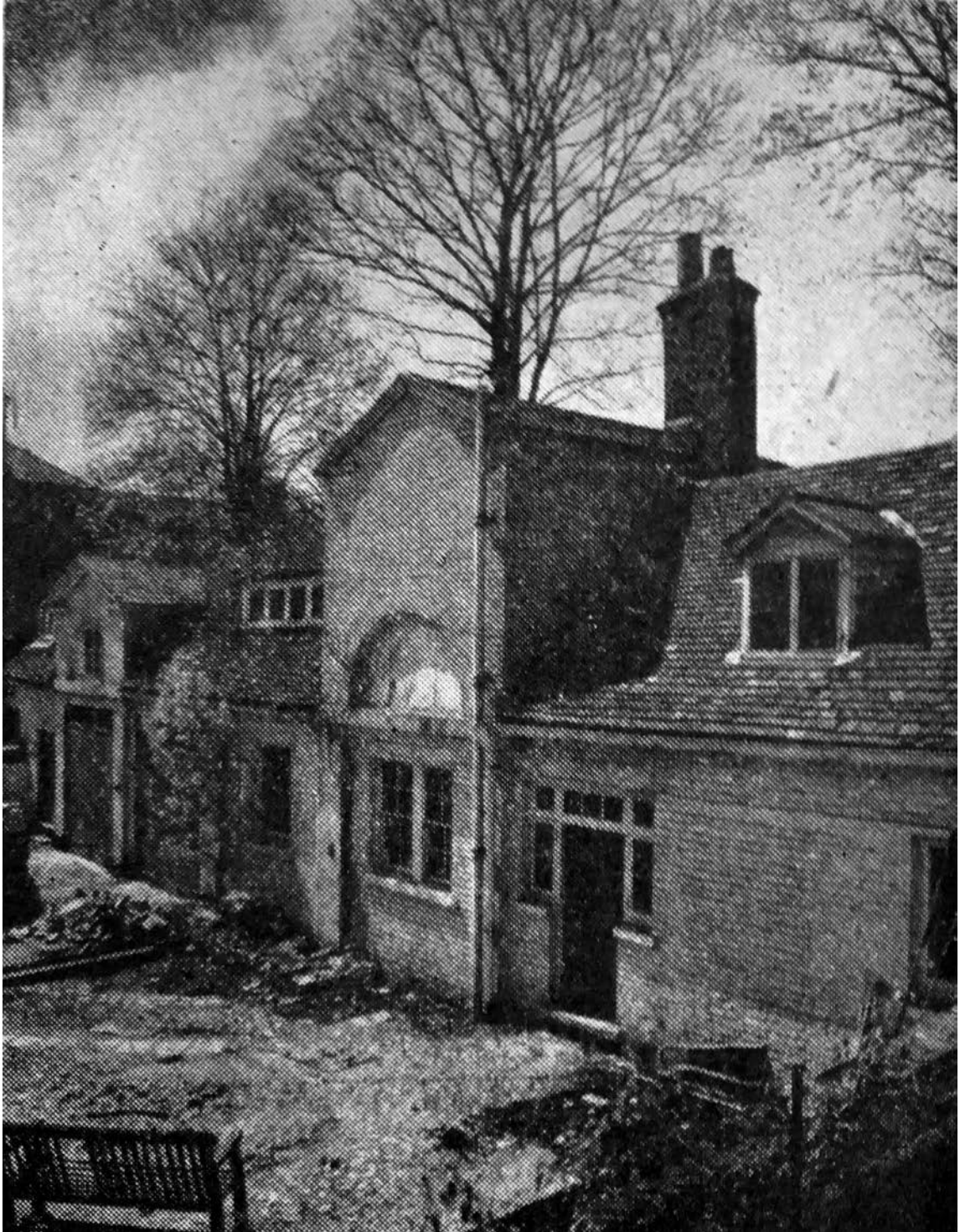
Frogna Grove and the Lime Walk, c1790. Aquatint engraving by 'Prestell'



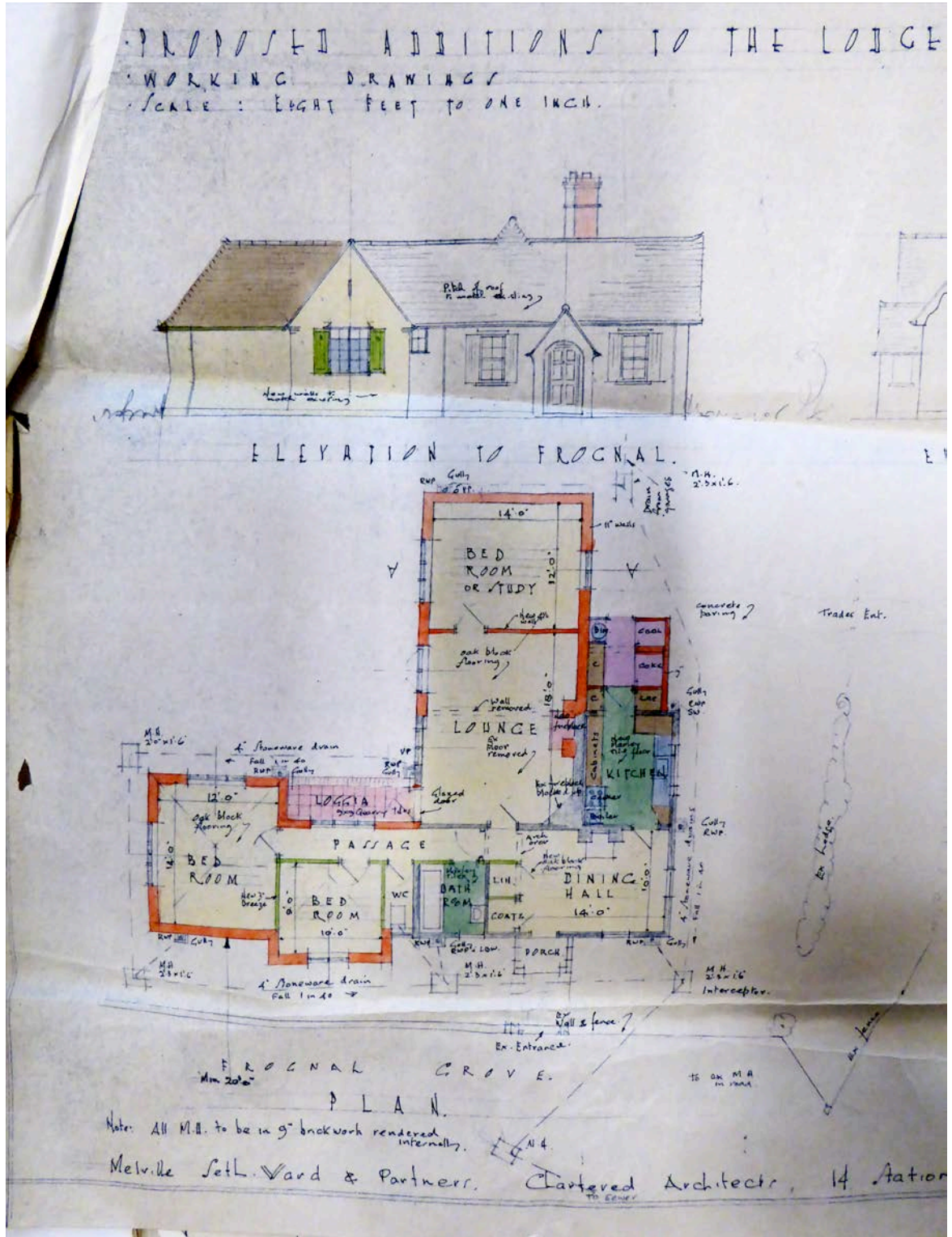
The lime-bordered avenue in 1949. (*Country Life*, 24 June 1949)



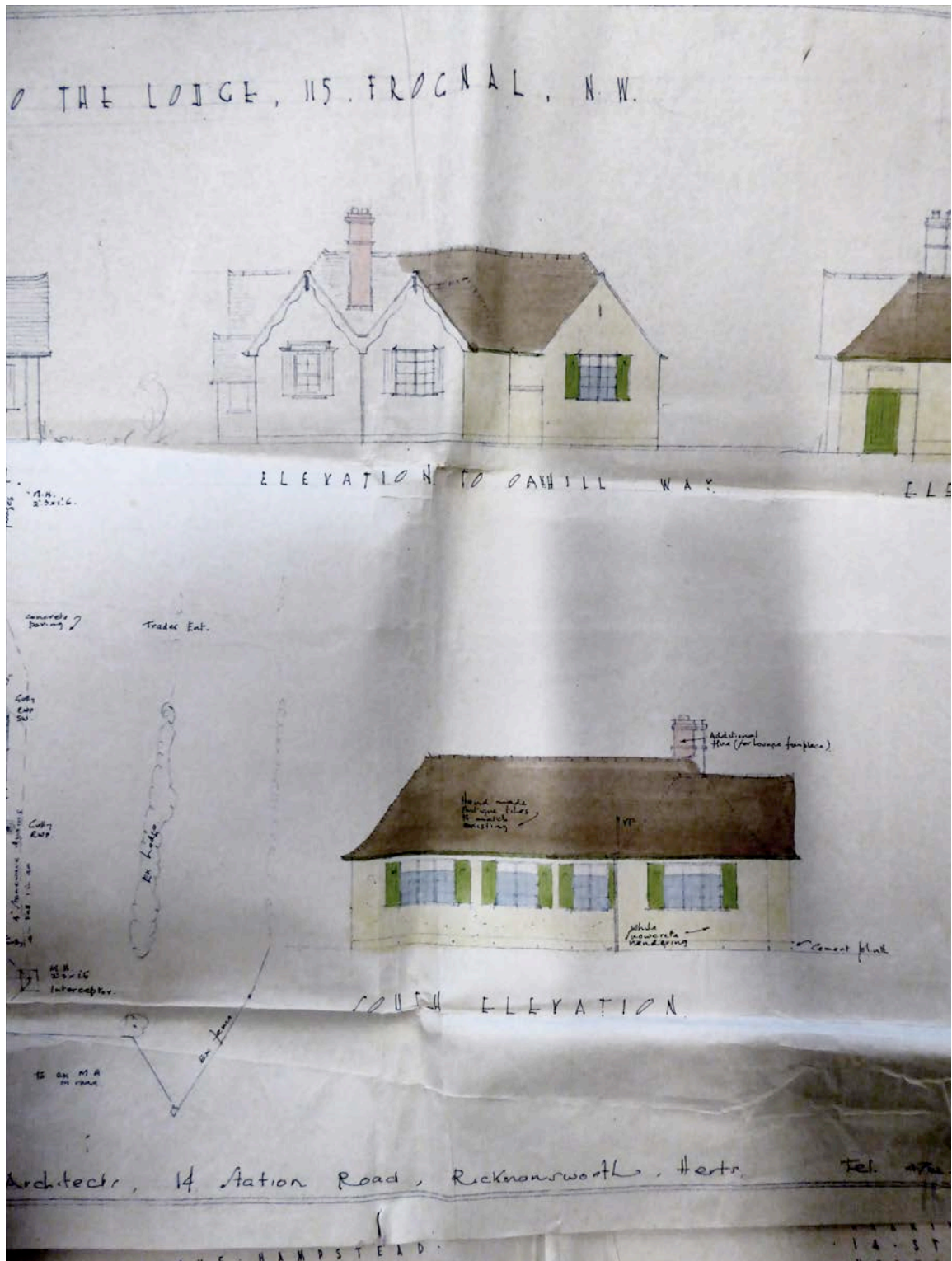
Conversion of Frogna Grove in c.1954, showing east fronts of Nos 107 and 109 Frogna. (The Architects' Journal, 9 December 1954)



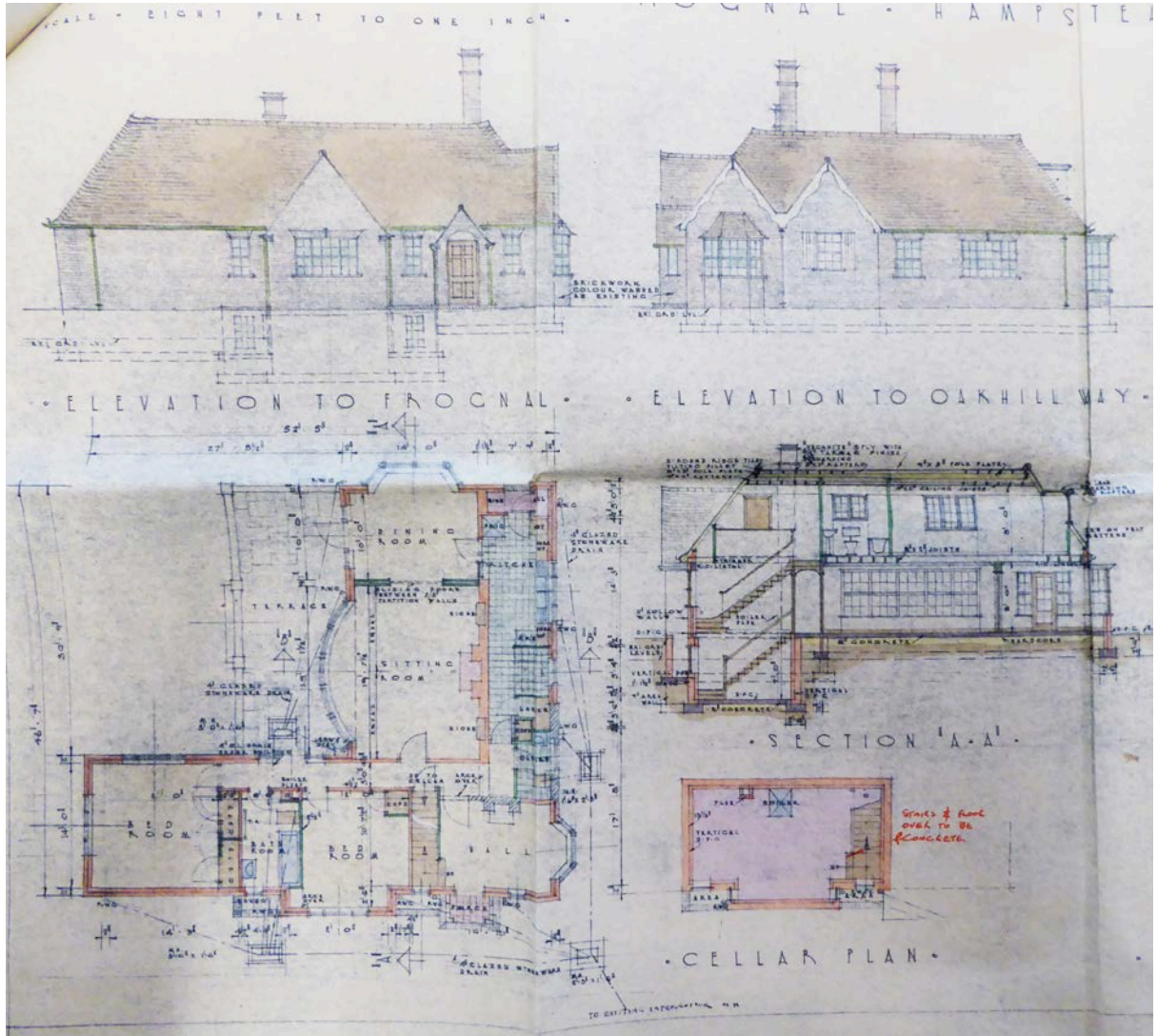
The west facade of unit No. 4 (No. 111 Frognal) during conversion in 1954. (The Architects' Journal, 9 December 1954)



Melville Seth-Ward and Partners's early proposals (undated, but LCC-stamped 5 January 1954) for extending and adapting The Lodge. LMA GLC/AR/BR/o6/088034



Melville Seth-Ward and Partners's early proposals (undated, but LCC-stamped 5 January 1954) for extending and adapting The Lodge. LMA GLC/AR/BR/o6/088034



Melville Seth-Ward and Partners's reworked proposals (dated May 1954; LCC-stamped 11 August 1954) for extending and adapting The Lodge. Like earlier plans, these were wholly abandoned. LMA GLC/AR/BR/o6/088034

Appendix D: Contemporary floor-plans and photographs of No. 115 Frognal



Measured ground, first and second floor plans of No. 115 Frognal.



Interior views

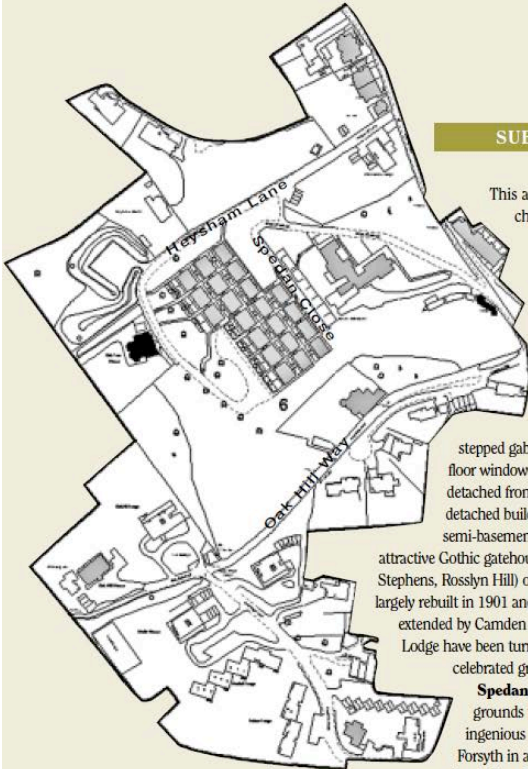


Aerial view looking east, with No. 115 Frognal on the left, and the former, listed Frognal Grove on the right.



Aerial view looking north, showing rear (garden) elevation of No. 115 Frognal

Appendix E: The Branch Hill/Oak Hill sub-area of the Hampstead Conservation Area



SUB AREA SIX: Branch Hill/Oak Hill

This area is composed of the Branch Hill and Oak Hill character zone. The area is principally woodland on the western slopes of Hampstead in which buildings play a subordinate role. It is designated a borough Site of Nature Conservation Importance by London Ecology Unit.

Branch Hill This is an old route skirting the edge of the Heath that links up with West Heath Road. A number of houses were built along it in the latter part of the 19th century. Nos. 1-5 is a Gothic terrace of stock brick and red dressings, with stepped gables and decorative slate-hung arches over the top floor windows. As the road meets West Heath Road and slightly detached from the village is a group of late 19th century semi-detached buildings, with Gothic elements, with three storeys, semi-basement and domered roof. Branch Hill Lodge and its attractive Gothic gatehouse (listed) was built by SS Teulon (architect of St Stephens, Rossllyn Hill) on the site of a much older house. The Lodge was largely rebuilt in 1901 and in 1965 converted into an old peoples home and extended by Camden Council. The old kitchen gardens of Branch Hill Lodge have been turned into allotments. In 1978 the Council built a celebrated group of houses in the grounds of the Lodge named

Spedan Close. Built against the steep incline of the grounds they are in concrete and white render with an ingenious series of roof gardens. Designed by Benson and Forsyth in a compact cluster which leaves much of the well wooded site undisturbed. Heysham Lane curves around the estate and at its western side is Oak Tree House (listed), designed by Basil Champneys in 1874. West Heath Lodge on Branch Hill, a five storey rectangular slab of flats, has replaced an older villa. Several undistinguished modern houses have been built among the trees along Oak Hill Way.

Oak Hill Park was developed around 1850 with an informal layout of plain but substantial Italianate villas. Only No. 1 and Oak Hill House remain; the rest were replaced in 1960 by a grouping of flats, of no great quality in themselves but pleasantly arranged among the grassy slopes and mature trees of the older gardens (Won Civic Trust Award in 1961). Two blocks are seven storey, with strong horizontal brick banding and balconies at the corners. Another group of four connected blocks are three storey with a greater use of brick and concrete string course between floors.

■ Listed buildings


■ Buildings which make a positive contribution



Buildings or features which detract from the character of the area and would benefit from enhancement

Oak Hill Park: garage court beside No. 1
 Oak Hill Way: 1, 3, 4 & 7
 Spedan Close: additions to Branch Hill House.

Neutral Buildings

Frognal: 115



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Conservation area statement

Appendix F: Sources and Archives consulted

Camden Local Studies and Archives

London Metropolitan Archives

Camden Planning online

RIBA Library

The Times online

Appendix G: Approach to the statutory tests in sections 66(1) and 72(1) of the Planning (Listed Building and Conservation Areas) Act 1990

We set out as follows the approach that we take to section 66(1) and section 72(1) of the Planning (Listed Building and Conservation Areas) Act 1990 in the light of the *Barnwell Manor* Court of Appeal judgment and subsequent decision in the High Court in *Forge Field*.

Section 66(1) of the Act requires decision makers to "have special regard^[11] to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses" when determining applications which affect a listed building or its setting.

Section 72(1) of the Act requires decision makers with respect to any buildings or other land in a conservation area to pay "*special attention*^[21] [...] to the desirability of preserving or enhancing the character or appearance of that area".

The necessary stages for the decision maker in fulfilling its duties under these sections (and therefore the approach to be taken in any analysis) are as follows:

Identify whether any harm is likely to be caused to a listed building or its setting or to a conservation area or its character or appearance and, if so, the likely nature of that harm. The assessment of as to whether there is likely to be harm is a matter for the decision-maker's own judgment. The decision-maker can still rationally conclude that there is no harm where any adverse implications for the listed building or conservation area are de minimis, considering the overall impact of the proposal on the heritage asset as a whole.

Identify all other material planning considerations, including national and local policies (compliance with the statutory development plan to be given particular weight because of the presumption in section 38(6) of the Planning and Compulsory Purchase Act 2004 that determination must be in accordance with the plan unless material considerations indicate otherwise).

If there is likely to be harm (whether substantial or not), the decision-maker must balance that harm against any countervailing planning benefits, but in so doing must give “considerable importance and weight” to the finding of harm. Another way to describe giving “considerable importance and weight” to the finding of harm is to say (as the court did in *Forge Field*) that there is a “strong presumption ... against granting planning permission for any development which would fail to preserve the setting of a listed building or the character or appearance of a conservation area”, which presumption “can be outweighed by material considerations powerful enough to do so”.

Where “substantial harm” is found, the advice in paragraph 133 of the NPPF should additionally be taken into account, namely that consent should be refused “unless it can be demonstrated that the substantial harm or loss is necessary to achieve substantial public benefits that outweigh that harm or loss” or at least one of four specified criteria are met.

Where there is found to be harm which is less than substantial, care is needed that the decision-maker expresses and applies the test correctly. Paragraph 134 of the NPPF 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 securing its optimum viable use.” However, this now needs to be applied in the light of *Barnwell Manor* and *Forge Field*. As set out above, even where “a development proposal will lead to less than substantial harm to the significance of a designated heritage asset”, in weighing that harm “against the public benefits of the proposal, including securing its optimum viable use”, it is clear that “considerable importance and weight” should be given to that finding of harm.

If both section 66 (any listed building and/or its setting) and section 72 (any conservation area) are engaged, this analysis needs to be carried out separately under each section.

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