



Phillips Planning Services Ltd.

Town Planning and Development Consultants

PW
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Dear Laura

Extension and Alteration proposals at 111 Frognal Ref:2021/0409/P & 2021/0406/L

As you may recall we wrote to you in January 2020 on behalf of Mr & Mrs Finegold, the owner occupiers of No.113 Frognal in respect of application 2019/6089/P. Mr & Mrs Finegold raised no objection to the plans at that time as the proposed upper ground rear extension, adjoining their boundary was to be retained 'hidden' behind the boundary wall. Comments provided related to ensuring tree protection measures were put in place and that appropriate conditions were included to mitigate against construction impacts.

The current applications now seek significant changes to the approved scheme (partly retrospective) to which Mr & Mrs Finegold raise objection.

We are also now jointly instructed by Mr & Mrs Stern, the owners and occupiers of No.109 Frognal. Mr & Mrs Stern similarly did not object to the original proposals but now hold significant concerns regarding these current proposals.

Context

The developer's applications seek permission to significantly vary the approved scheme including additions to the rear extensions at lower ground and upper ground floor levels, internal alterations and the creation of a new lower ground floor habitable area beneath the extended rear upper ground extension.

These proposals are in part retrospective as the foundations associated with these changes have already been constructed on site.

The application documentation suggests that the proposed changes must be considered acceptable because the groundworks / setting out associated with them were 'approved' by the Council as part of the discharge of condition 5 of the original consent.

We respectfully do not agree with this assertion. Whilst it is unfortunate that these very significant variations from the approved scheme were not picked up when the Council considered that submission, the approval of the conditional details can in no way can be taken to supersede or justify changes to the main parent planning permission. It is perhaps understandable that the variations were not picked up as the Council would have been looking at the technical aspects not necessarily checking that the layout matched the approved scheme. It would have been expected that details related to the approved scheme, not to a very different layout.

No weight whatsoever can be placed on the approval of the condition details. The works as constructed on site are 'unauthorised'. This is relevant to how the current applications may be viewed.

As the Council is aware, on 31 August 2015 the Chief Planning officer Steve Quartermain CBE wrote to all local authorities advising them that:

*"The government is concerned about the harm that is caused where the development of land **has been undertaken in advance of obtaining planning permission**. In such cases, there is no opportunity to appropriately limit or mitigate the harm that has already taken place.....*

*For these reasons, this statement introduces a planning policy **to make intentional unauthorised development a material consideration that would be weighed in the determination of planning applications and appeals**. This policy applies to all new planning applications and appeals received from 31 August 2015."*

In summary, the fact that unauthorised works have been undertaken should not result in a more favourable consideration of a subsequent retrospective application. Rather where such works are knowingly undertaken this may be considered a material factor weighing against the grant of retrospective consent.

(The Council will also be aware that in addition to the current applications which are in part retrospective / unauthorised, there is an ongoing enforcement case relating to the creation of an unauthorised basement beneath No.111.)

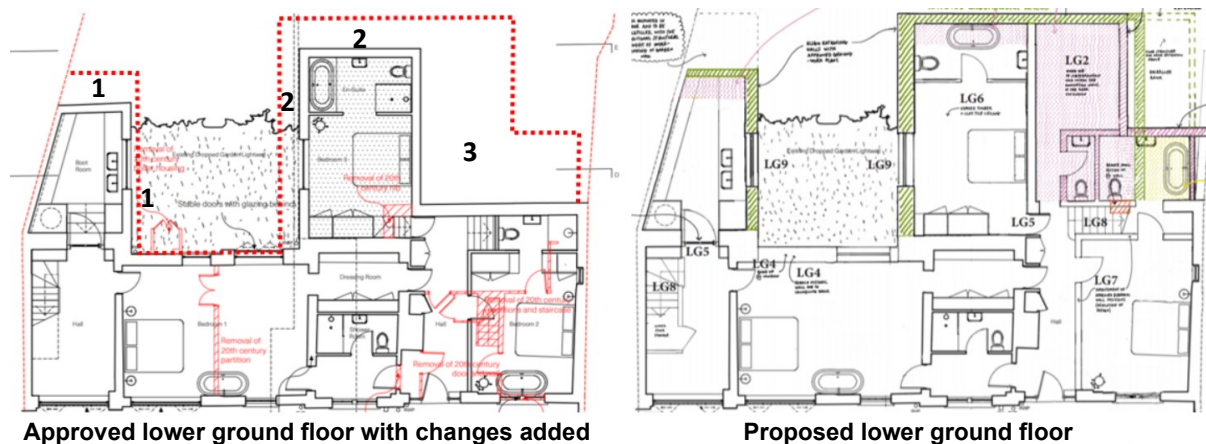
The Proposed Changes to the Approved Scheme

Lower ground floor level

The plan extract (below left) shows the approved scheme with the outline of the additions now proposed overlaid with a dashed red line. The plan extract (below right) is the proposed plan from which the dashed red outline has been taken.

As will be noted the proposed changes include:

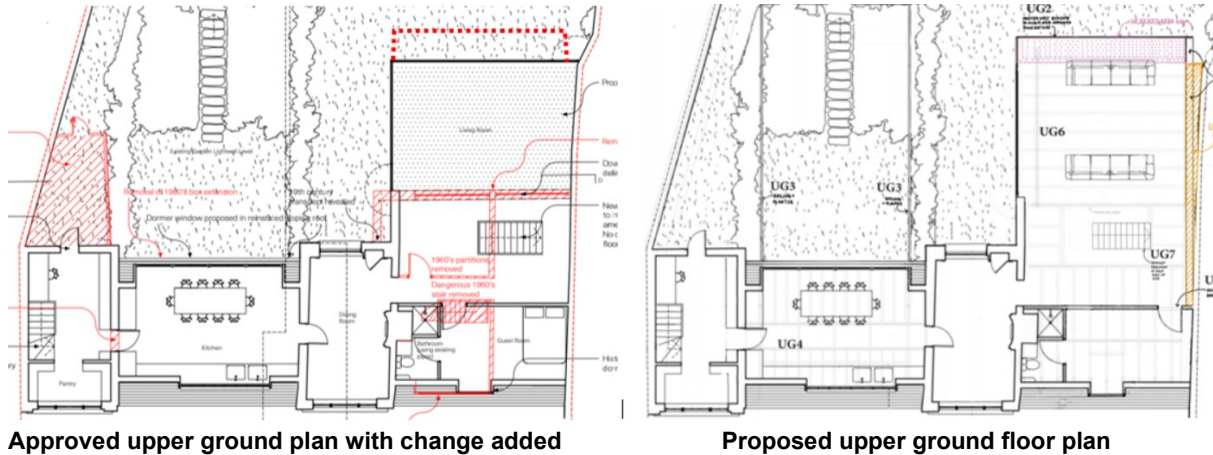
1. A longer / deeper and wider boot room.
2. A longer / deeper and wider bedroom and bathroom.
3. A new lower ground floor extension including a new room and additional bathrooms



Upper ground floor level

At upper ground level the main alteration is the further addition to the previously approved rear extension.

As with the lower ground this change is highlighted in the comparison plan extracts below.



Objections

Our clients hold a number of concerns regarding the proposed changes. Very broadly these fall into two categories:

1. Adverse impacts upon the residential amenity of No.109 and 113
2. Harm to the special character of No.111 as a Grade II* listed building

Impact on No.113

As noted above, our clients at No.113 did not object to the original proposal for the upper ground floor extension as this was shown to be retained behind the existing garden boundary wall. This already provides an imposing structure when viewed from the garden and rear of the house but as no additional bulk was to be added there was no cause for concern.

As shown in the photograph on the following page, the boundary wall is screened by existing ivy which mitigates against the scale of the wall to the south side of the garden, the patio and from the rear ground floor bay window.

The extension as approved would not be visible beyond this existing 'ivy screened' boundary wall. In contrast the amended proposal would project beyond the existing wall and so protrude into the current gap between the end of the wall and then beyond the tree in the photograph. (The tree does not appear to be accurately positioned on the submitted drawing).

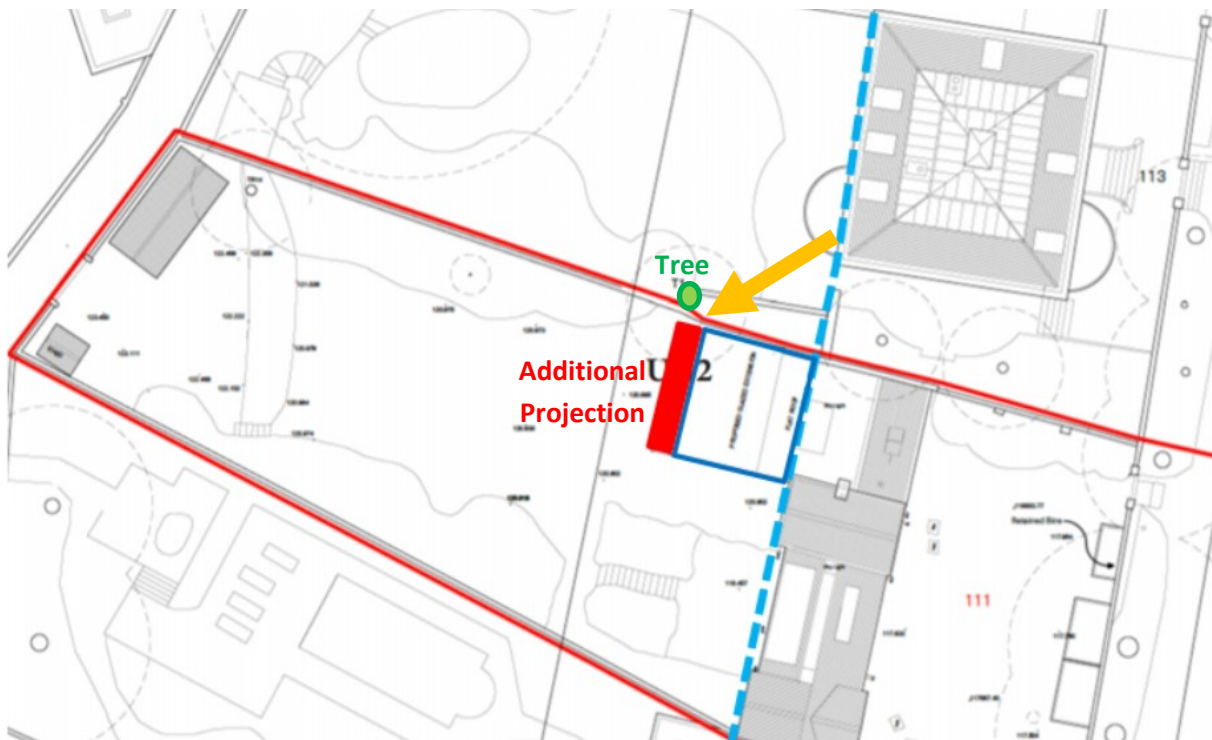
The existing wall / wall of the approved extension already projects some 6.5 metres beyond the main rear building line at 111 and 113 as shown by the blue line on the following plan extract. It is very unlikely that such a depth of extension would have been permitted save for the fact that it was to be hidden behind and built off the already existing wall. The additional metre now proposed would take this to approximately 7.5 metres and would be visible within a 45 degree line of site from the rear of No.113. Although stepped in a little from the boundary it would have the effect of extending the built form visible along this boundary, exacerbating the sense of enclosure and creating an overbearing impact which would adversely impact the amenity currently enjoyed by the residents of No.113.

The developer's justification for this change centres around engineering advice and a desire to minimise impacts upon the retained tree which would be harmed if the extension was built as per the existing permission.

This is surprising and at best unfortunate as the impact of the extension as permitted was of course considered by the developer's arboricultural consultant and the Council's tree officer as part of the assessment of the original application. Both advised that the extension could be delivered in a perfectly acceptable manner whilst protecting the tree.



View showing the existing boundary wall and sky gap to the tree



Proposed layout plan showing the extra projection relative to No.113

Impact on 109

The works undertaken have two impacts upon No.109. Firstly, as part of the demolition of the rear extension and its replacement (boot room) on the boundary with No.109 the side wall of No.109 (also Grade II* listed) has been underpinned without listed building consent and without the provision of any engineering information / justification or party wall agreement.

As may be appreciated this work has not been subject to independent scrutiny and raises concerns as to the future stability of No.109.

Secondly the additional projection sought at upper ground floor level will be more prominent and visible in views from the upper floor windows within the rear elevation of No.109 and from the garden. Whilst it is noted that no additional glazing is proposed beyond that of the approved scheme, the fact that the extension will be more visible will draw the eye and add to the perception of overlooking from what would be a larger more visible element of built form.

Impact upon the Character & Significance of No.111

As the Council is aware, No.111 is Grade II* listed. Grade II* buildings are particularly important buildings of more than special interest. Only 5.8% of listed buildings meet the test to be considered for Grade II* status.

In considering the impact of the proposals upon the character of No.111 it is necessary to understand the elements which contribute to the significance of the building i.e., what are the elements that make it of 'more than special interest'.

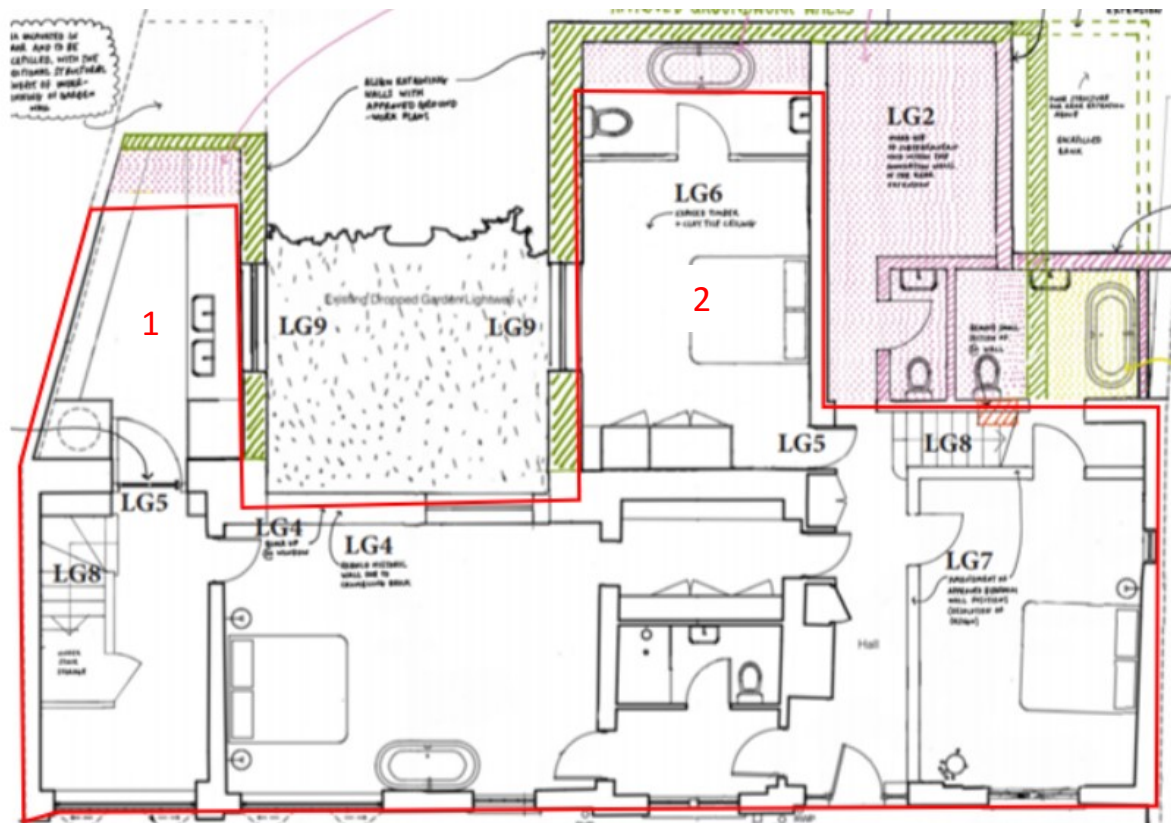
The submitted heritage statement acknowledges the original scale and use of the building as a modest stable block and highlights the following as key aspects of interest:

1. Legibility of the original facade composition to the front façade only;
2. Original features to the front façade only;
3. The relationship of the building relative to the principal house as the ancillary stable block;
4. Understanding of the building as former stable block including single room deep plan and;
5. Hierarchy of the rooms reflecting the original single storey stable with hay loft above.

Whilst we broadly agree with these highlighted aspects, we would comment in relation to points 1 and 2 that whilst clearly the front façade may be of greater value than the rear, the rear retains significance for its simplicity as part of a Grade II* listed building. It would be inappropriate to take a position that the rear of the building 'does not matter' and so alterations to it do not require careful consideration. In our view Points 3 and 4 are of key importance in this case. No.111 was a stable block associated with the main house and its character is that of a modest building with a single room deep plan form. The house is also of significance as it was the home and studio of Sir Anthony Caro, the world renowned sculptor and also the studio where some of his greatest works were created.

In summary it is clear that No.111 was listed for its association with the wider listed grouping including the main house. Its character is that of an ancillary stable block of one room deep plan form with a single storey and attic accommodation. The association with Sir Anthony Caro is also of great significance. It is respectfully our submission that any proposals which detract from this identified character and further erode the appreciation of the original scale, plan form and appearance of the building must be considered harmful to the aspects which have elevated the buildings status to that of more than special significance (Grade II*).

In this context it is considered that the amended proposals (part retrospective) which are the subject of the current application would be harmful to the identified significance in a number of aspects. The lower ground floor overlay plan below assists in illustrating these issues. The red line shows the outline of the building with the extensions as approved set against what is now proposed.



Approximate overlay of existing lower ground floor (red) compared to the current proposal

The southern rear wing labelled '1' was existing, the more central wing labelled '2' was granted permission in 2020.

The southern wing was to be demolished and replaced on a similar footprint whilst the central wing was wholly new. It is respectfully submitted that the Council's decision to grant the central wing (2) may be considered 'generous' given the one room deep plan form of the former stable block. However, the relatively narrow nature of this element does allow the original stable block plan form to be appreciated and understood with this element a distinct narrow projection which does not overpower the original building.

It is noted from a review of the Design & Access Statement submitted by the developers in respect of the originally approved scheme that there had been a number of rounds of pre-application discussions between the developers and council before the scheme which was eventually approved was submitted. The general tenor of the discussions was clearly on the basis that the developer was seeking larger scale extensions and the Council was advising that these were too large and would overpower and so harm the scale and proportions of the original building.

The amended proposals (part retrospective) seek to extend the already generous rear extension further out and also double its width across much of the rear elevation contrary to the pre-application advice and agreement.

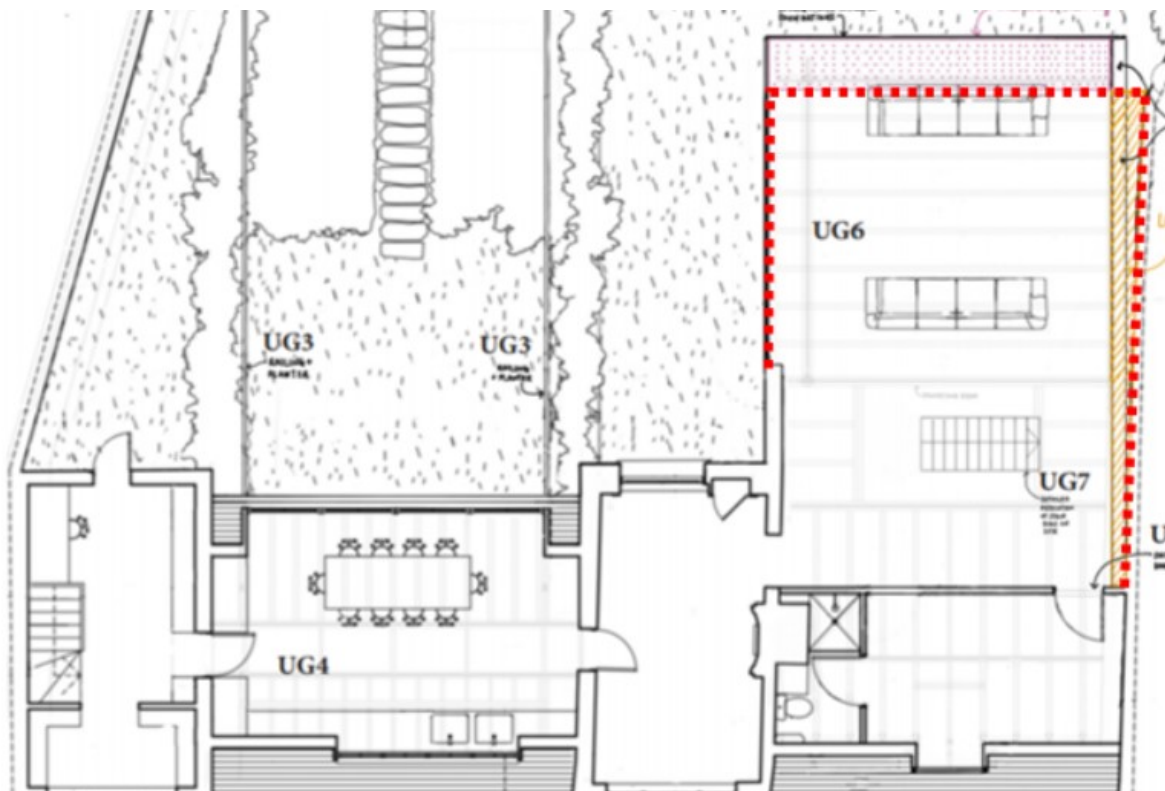
The southern face of the central element also appears to have been widened / made thicker (presumably for structural reasons) and this combined with the widened and deeper southern wing projection (1) narrows the courtyard gap and the appreciation of the rear wall of the original stable block.

The extensions if permitted would no longer be subordinate but rather would overpower and completely distort the plan form of the building. The original character as an ancillary, one room deep stable block would be completely lost. Cumulatively the additions would almost double the buildings footprint. Whilst it is noted that the developer seeks to downplay the impact on the basis of its subterranean nature, the extensions would very clearly be appreciated by users of the building now and in the future.

(As noted above the Council is in the process of an enforcement enquiry relating to an unauthorised basement which is not part of the current application and a further application, upon which separate comment will be made, has also been submitted seeking permission for a very large, part subterranean addition beneath the rear garden area. The further cumulative impact of these aspects is relevant and should be considered as part of the review of this application).

It is not reasonable or credible to suggest that the proposed additions would result in no harm to the significance of the building. The extent of harm will be a matter for the Council's consideration and assessment. However, whether this is deemed to fall into the substantial or less than substantial category in NPPF terms, in either case, there are no public benefits (paragraphs 195 and 196 of the NPPF) which justify any harm in this case.

At upper ground floor level, it is proposed to extend the permitted extension back by approximately an addition metre into the garden. The extract below highlights in red the extension as approved.



Proposed upper ground floor with approved extension highlighted in red

As with the lower ground, the existing upper ground floor extension as permitted was generous. The proposal to extend this further is 'justified' in the application on the basis that engineering design has resulted in the need to move the extension off the boundary thereby reducing the internal space within the extension by 4sqm and these need to be regained.

Clearly this is not justification for further extension and certainly not for an extension which more than replaces the floorspace lost (6sqm rather than 4sqm).

The extension is already large and there is no need or justification for addition depth.

The further extension would result in a disproportionate extension at this level.

As with the lower ground, there are no material considerations or public benefits which justify the harm that would be caused.

Conclusions

It is with significant regret that our clients find themselves in the position of having to raise objection to these applications.

As noted above they did not do so when the original consents were granted.

The development proposals are unneighbourly would adversely impact the amenity of No.109 and 113 as described. However, perhaps more importantly the proposals result in clear and irreversible harm to a Grade II* listed building, the former home and studio of the eminent sculptor Sir Anthony Caro, for which there are no public benefits by way of justification.

The proposals are in part retrospective. As of 2015 it has been government policy that this factor may be taken to weigh against rather than be a reason to grant permission in such cases.

The extensions as granted provide for very generous additions to the house. There is no need for the changes proposed.

Our clients ask that these applications are refused and that the scheme as granted (or a reduced scheme if required as a result of the tree issues) is built out correctly.

Yours sincerely,

Paul Watson
Phillips Planning Services Ltd