

47a Hampstead High Street  
Hampstead  
London  
NW3 1QG

30<sup>th</sup> October 2014

Dear Mr. Martin

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**Application Number** 2014/5484/P

**Site Address** 1st & 2nd Floor Flat 46 A Hampstead High Street London NW3 1QG

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Ann Sullivan and Michael Evans, being the freeholders and owner occupiers of 47a Hampstead High Street, NW3 1QG, would like to oppose the planning application for the construction of a terrace to the rear of 46a Hampstead High Street, NW3.

### **Background**

47a Hampstead High Street, London NW3 is a 3 story Victorian semi-detached property set back from Hampstead High Street NW3.

In 1992, planning permission for a rear ground floor brick extension for McDonald's restaurant was granted at the rear of 46 Hampstead High Street. This eliminated the original garden space and rear access and created an accessible roof space.

This roof space is over 2 m above the ground floor of 47a Hampstead High Street NW3.

The creation of this accessible rear extension roof caused significant privacy concerns for the owner occupiers of 47a Hampstead High Street NW3. The existing garden of 47A Hampstead High Street NW3 became wholly overlooked from the new roof extension as did the existing glass roof of the existing ground floor extension at 47A. This existing glass roof could also be directly looked into. From the newly created roof space at 46 Hampstead High Street NW3, In addition, both first floor bedroom windows of 47A were also now on the same level as the roof space created by the McDonald's rear extension and therefore could also easily and directly be look into.

For this reason the 1992 planning permission created a restriction (Condition 02).

***"Condition 02 was applied to this Consent. No part of the roof extension hereby approved shall be used other than for maintenance purposes or as an access to the residential upper floors".***

We maintain that the original planning restrictions were correctly conceived as the creation of the original extension and the accessible roof seriously compromised the privacy of 47A and that building a terrace on the roof, or on top of an installation on the roof, violates the original planning legislation.

This current application for planning permission, Ref 2014/5484/P, cannot be allowed because the same privacy concerns exist as to when the original planning restrictions (Condition 02) were conceived and nothing has changed.



Specifically these significant privacy concerns are as follows.

### **Privacy of the Garden of 47A Hampstead High Street, NW3**

The proposed terrace is to be built on top of ventilation equipment which is a further 1.5m above the roof. Making it 3.5 m above the ground floor of 47A.

Anyone on this proposed roof terrace will clearly overlook the entire garden of 47a Hampstead High Street, NW3, destroying any privacy that the garden previously had.

The garden of 47a Hampstead High Street, NW3 viewed from the site of the proposed roof terrace is:-



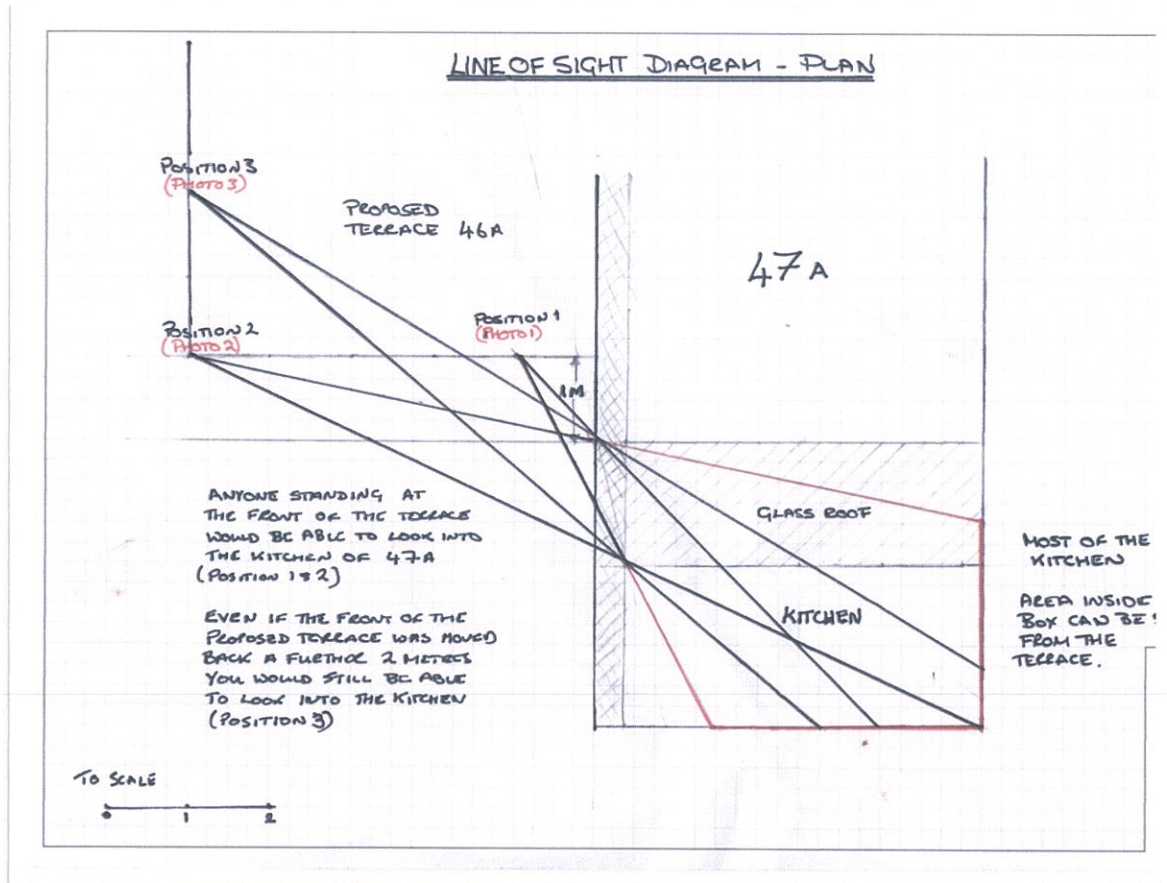
### **Privacy inside the family residence at 47A, Hampstead High Street, NW3:**

Clear visibility, looking directly into the kitchen of 47a Hampstead High Street NW3, through the existing glass roof, will be effective if the planning application for this proposed roof terrace is considered.

This is a violation of privacy and incredibly intrusive.

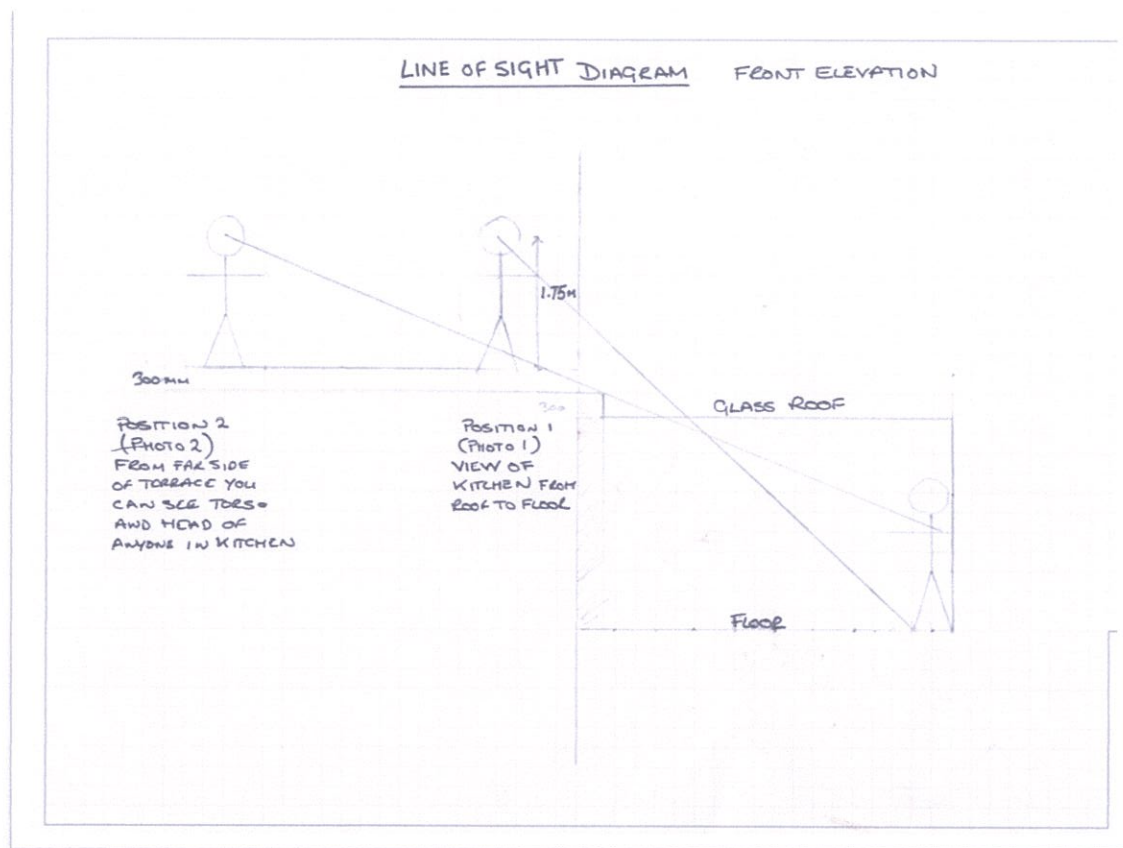
If family residents of 47A Hampstead High Street, NW3 are in the kitchen they will be acutely aware of any people on the roof terrace both day and night. This can clearly be seen in the following 'line of sight' diagrams and pictures. A site visit by Camden Council would confirm this.

Standing at the position of the front of the proposed terrace there is a clear line of sight into the kitchen of 47a Hampstead High Street NW3. Even moving the front of the proposed roof terrace back a further 2 metres there remains a clear line of sight directly into the family kitchen.



Because of the height of the proposed roof terrace there is a clear line of sight from top to bottom of the kitchen of 47a Hampstead High Street NW3, from the near side and the head and torso of a 1.75m high person, even if viewed from the far side of the proposed roof terrace.





Photos taken from the terrace confirm these line of sight diagrams.

Photo taken from Position 1 on the line of sight diagram provided. This is looking directly into the kitchen of the family home, 47A Hampstead High Street, NW3. :





**Night time view from Position 1:**



**Photo from Position 2 on the proposed roof terrace**

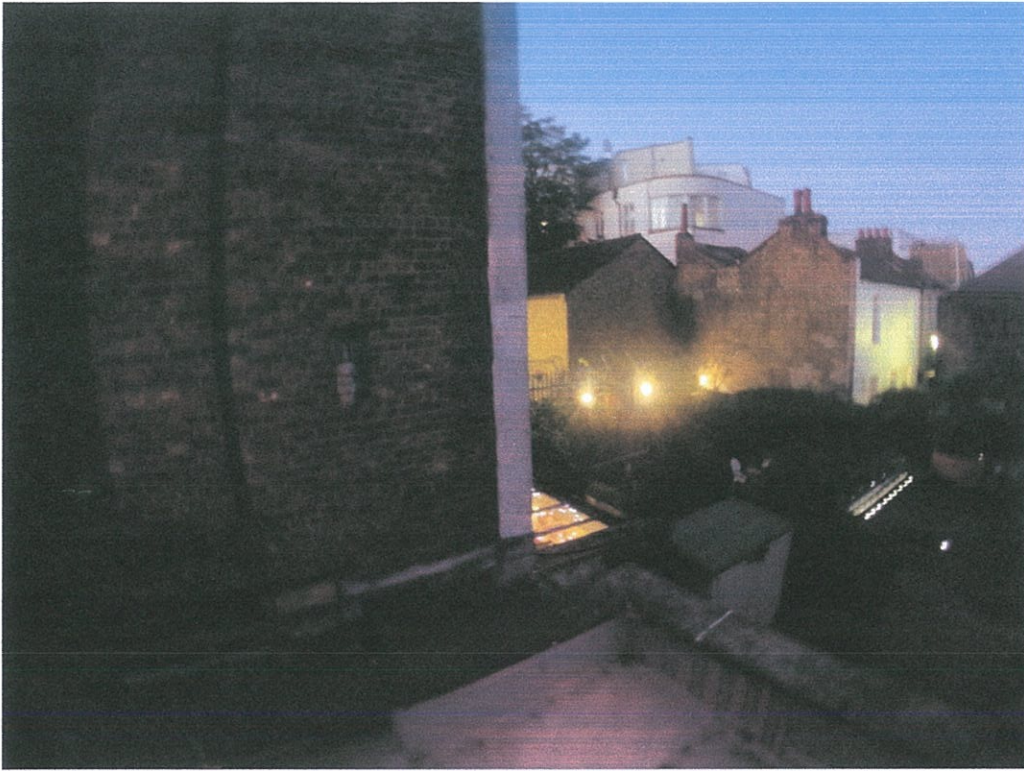




**A night time view of Position 2**



**Even if you move the proposed roof terrace 2 metres further back to Position 3 you can still look into the family's kitchen**



## Noise

The proposed terrace is at the same level as the windows of 47a Hampstead High Street, NW3's first floor bedrooms. A metre away from where our daughter sleeps. Any noise from the terrace will be heard in these adjacent bedrooms.

The height of the terrace means the noise will always be projected out and be a nuisance.

This is different from a ground floor garden where a lot of the noise is absorbed by the surrounding brick walls, fences and plants.



## **Other factors to consider:**

### **Non-compliance with current planning legislation (granted in 1992) relating to the roof space of 46A Hampstead High Street NW3**

The leaseholders of 46a Hampstead High Street NW3 have lived at the property for less than two years.

The leaseholders of 46a Hampstead High Street NW3 have repeatedly assured the owner occupiers of 47A Hampstead High Street NW3 that they are fully aware of the existing planning legislation and "do not intend to use the roof space".

However, despite this assurance, they have consistently and deliberately breached the existing planning legislation. In some cases they stated this was to improve the aesthetic environment which potentially benefitted both parties but lately, especially during the summer, they have been using the roof space regularly, gardening on Saturdays and Sundays, daily watering substantial planting across the entire roof space, smoking, speaking on their mobile telephones and completing a range of DIY at weekends and evenings on the roof space.

We believe we have absolutely acted as a good neighbours repeatedly, and have politely asking them not to use the roof space on numerous occasions as they are in breach of planning legislation.

However, as previously discussed, the daily presence of people on the roof space utterly destroys our privacy of our garden and our kitchen.

This has become so frequent in 2014 that we did not venture out if the neighbours were on the roof space for several hours at a time both during the day and at night time.

We have tried numerous amicable attempts to explain the planning legislation ourselves to the leaseholders of 46A Hampstead High Street NW3 which have failed.

We therefore contacted Camden Planning Enforcement in the hope that a little word would make the owners of 46A Hampstead High Street NW3 adhere to the legal planning restrictions. It should be noted that no other previous owner or tenant has deliberately ignored planning legislation restrictions after being told / clarified of its existence.

This proposed planning application, number 2014/5484/P, also alludes to the owners of 46a Hampstead High Street, NW3 not complying with the restrictions imposed by current planning directives.

The following quotes are from their planning application number 2014/5484/P:

1. To construct an outside terrace space for No.46A, this will remove the desire to use the roof area, which is intended for access and maintenance only.

The flat roof at the first floor level of No.46A creates overlooking conditions for the garden, kitchen roof lights and rear windows of No.47A. Despite the operation of Conditions quoted above, it is difficult for the resident of No.46A to avoid disturbing the privacy of No.47A.

From this we can clearly read that they desire to go on the roof space and that they find it difficult not to. It is difficult not be contemptuous about this. The planning restrictions are clear. The roof is for access and maintenance only. You avoid disturbing the privacy of No 47A by adhering to the existing planning legislation.



The leaseholders of 46a Hampstead High Street NW3 appear to be claiming in this planning application that as they have difficulty respecting our privacy and sticking to the legal planning restrictions that they should somehow be rewarded by being allowed to build a roof terrace. This bizarre claim is much like a parking offender demanding a garage or a fly tipper demanding a skip. The clear implication in order for there not to be planning enforcement 'trouble' is to let them build their roof extension.

We have every confidence that this will not be at issue and that they will not be rewarded for their consistent and regular wholesale non-compliance of the current planning legislation.

Thank you for your consideration

Yours sincerely

Ann Sullivan

and

Michael Evans

Owner Occupiers of 47A Hampstead High Street NW3

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