

Application No:	Consultees Name:	Received:	Comment:	Response:
2021/5066/P	Charles and Jennifer Goldblatt	31/12/2021 01:45:27	OBJ	<p>Charles and Jennifer Goldblatt 13b Burghley Road London NW5 1UG [REDACTED] [REDACTED]</p> <p>30 December 2021</p> <p>Dear Sirs</p> <p>11 Burghley Road London NW5 1UG (2021/5066/P)</p> <p>Please accept this letter as our formal objection to the planning application (2021/5066/P) submitted by Daniel &amp; Louise Chamberlain (the Applicants) of 11 Burghley Road (1BR) on 6 December 2021.</p> <p>We are the owners of Flat B, 13 BR, which occupies the raised ground floor of the building directly adjacent to and adjoining 11 BR. 13 BR is a one bedroom property with a living room / kitchen at the front of the building (adjacent to the road) and a bedroom / bathroom at the rear of the property. 13 BR's only bedroom is directly adjacent to and on the same level as the proposed roof terrace.</p> <p>The planning history of the extension at 11 BR is extensive. In summary: -</p> <p>(1) In May 2018, the Applicants submitted an application for a Certificate of Lawfulness (2018/2335/P) for 'Erection of a single storey rear extension at lower ground floor level and associated raised platform'. The original design of the extension was for a slanted roof extending across the vast majority of the extension, with a very small flat section of roof leading from new French doors to a set of stairs, which were within the boundary of the extension (i.e. the stairs did not extend beyond the furthest point of the extension). This small flat section of roof was adjacent to the boundary with 9 BR.</p> <p>(2) Throughout June and July 2018, our neighbours at 9 BR were very vocal in their opposition of the application and, in particular, raised concerns that the application was not compliant with the rules governing the grant of certificates of lawfulness, because, inter alia, one of the rules for allowing permitted developments is that no verandas, balconies or raised platforms are permitted under section A.1(k) of the Town and Country Planning (General Permitted Development) Order 2015. At that time, even the design of the very small flat section of roof was contrary to section A.1(k).</p> <p>(3) In August 2018, application 2018/2335/P was refused on the basis that, inter alia, the design would consist of or include either (i) the construction or provision of a veranda, balcony or raised platform, (ii) the installation, alteration or replacement of a microwave antenna, (iii) the installation, alteration or replacement of a chimney, flue or soil and vent pipe, or (iv) an alteration to any part of the roof of the dwellinghouse, contrary to section A.1(k) of the Town and Country Planning (General Permitted Development) Order 2015. The Officer's report noted the following: -</p> <p>The proposal includes creating a raised area of flat roof at ground floor level which is accessible via steps</p>

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from the rear garden which would also form part of the extension. The proposed raised platform on the roof of the proposed extension would exceed 0.3m in height and is therefore not permitted development.)

(4) In the refusal notice dated 8 August 2018, at numbered paragraph 2, David Joyce (Director of Regeneration and Planning) noted the following: -

‘The proposed single storey rear extension is not permitted under section A. (k) of Part 1 of the Town and Country Planning (General Permitted Development) Order 2015 as it would include the construction of a raised platform on the roof of the proposed extension which would exceed a height of 0.3m, and as such a Certificate of Lawfulness cannot be issued.’

(5) In September 2018, we were informed by the Applicants that they had submitted Householder Application 2018/4262/P for a ‘single storey lower ground floor rear extension with roof terrace above’. As stated above, the original design of the roof of the extension was slanting upwards from their house, and so it could never have been used as a roof terrace along its whole width, save for a very small flat section of flat roof which would be used as a walkway into the garden of No 11 at the side of the extension adjacent to and adjoining No 9 Burgley Road.

(6) In an email sent to their neighbours, the Applicants stated the following: -

‘Hi, just to let you know we submitted a further planning application for a lower ground floor extension.

Hope you’ll see from the revised plans that the issues of loss of light (relevant to 13a & b) and loss of amenity have been addressed. If you feel they have not, I’m happy to discuss.

Dan and I have visited a number of neighbours with similar basement extensions, and discussed the impact with residents of adjoining properties; there have been no areas of concern. In fact, moving the main garden access to the lower ground has afforded increased privacy to all.

We submitted the plans yesterday so hopefully they’ll be available for public viewing soon. Once you’ve had a chance to digest, do let me know if you still have any concerns about the above issues.’

(7) The Applicants submitted this application without consulting their neighbours at 9 and 13 BR. We and our neighbours at 9 and 13 objected to the application on the basis that the design of the proposed structure, in which the slanted roof with brick surround adjoined the boundary of 13 BR, would have a detrimental affect on the use and enjoyment of our properties.

(8) In October 2018, when it became clear to the Applicants that their submitted plans would likely be rejected, and only as a last resort, they invited us to discuss their plans. At that meeting, we voiced our concerns. The Applicants agreed to move the slanting roof back from our boundary wall because of the potential for obstruction to light in our area in front of our neighbours French doors (at Flat A, 13 BR). The Applicants’ plans were revised and re-submitted in late October 2018.

(9) In November 2018, further revised plans were submitted in which the proposed slanted roof was abandoned and, instead, a flat glass roof was proposed along the entire width of the extension. The small flat

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section of roof remained, leading to the stairs which were (as before) within the boundary of the extension.

(10) In January 2019, the Applicant submitted another application for a certificate of lawfulness (2019/0110/P) for 'erection of a single storey rear extension at lower ground floor level'. In this application, the design had been amended so that the glass roof was, once again, slanted and surrounded by a brick wall. The brick surround was set back from the boundary of 13 BR by approximately 1 metre. There were no stairs leading from ground floor level to the garden and no access to the roof of the extension (whether from French doors or the existing door at ground floor level). As such, the flat roof could not be used as a terrace as there was no access to it from either ground or lower ground level.

(11) The certificate of lawfulness, granted in January 2019, could not have been clearer. At paragraph 1, it states (in no uncertain terms): -

'This decision does not give any approval for provision of a balcony on the roof of the single storey rear extension, subject to the grant of this certificate, in order to comply with criteria A.1(i) of the Town and Country Planning (General Permitted Development) Order 2015.'

(12) We were further reassured by Bethany Cullen (Head of Development Management) by her email of 19 February 2019 which stated as follows: -

'The applicant could not merge elements of the two schemes, for example, they could not add the roof terrace to the LDC application ... The LDC approval is subject to the flat roof not being used as a roof terrace'.

(13) Ms Cullen explained that it would be open to the Applicants to apply for a roof terrace in the future, 'subject to a full planning application (with associated consultation process) which would be determined on its merits'

(14) The Applicants commenced building works in mid-2019. They built a structure that did not conform with either 2018/4262/P or 2019/00110/P. A flat roof extended across the entire width of the extension. Stairs were clearly intended to be built from the furthest point of the extension down to the garden. In fact, temporary stairs leading to the garden from the edge of the extension were installed. French doors were not installed, but the existing door at ground floor level was retained and used to access the flat roof. On several occasions, the Applicants used the flat roof as a terrace.

(15) On 18 August 2020, we wrote to Ben Farrant (Planning Officer) to voice our concerns, in the following terms: -

'... we would like to inform you of our own concerns about the extension - specifically that it does not appear to conform to either the granted planning permission application under reference 11 Burghley Road London NW5 1UG (2018/4262/P) or the granted certificate of lawfulness under reference 11 Burghley Road London NW5 1UG (2019/0110/P). We have contacted our neighbours directly and requested that they guide us to the application and drawings to which they have built their extension. To date, we have not received a satisfactory response.

By way of background, we met with our neighbours in October 2018 to discuss appropriate amendments to

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the plans which would reduce any harm to our property (No.13). Our neighbours agreed to amend their plans (in light of our concerns) and submitted amended drawings to the council on 22 November 2018. Expressly on that basis, we did not object to the application and the council granted planning permission on the basis of the amended drawings.

Unfortunately, however, our neighbours appear to have since completely disregarded the plans which we (and Camden) approved and have simply built what they want. We are now concerned that they will apply for retrospective planning permission to sanction what they have built.

From what we can see of the extension from our garden, it is quite clear that what has been built does not conform with either of the above mentioned applications. In particular: -

1. The middle door at ground floor level leads out onto the flat roof and there are no patio doors leading to a staircase to the garden. Conversely, in both applications, the middle door onto the existing staircase is removed and the French patio doors are drawn adjoining boundary with No.9. At the moment our neighbours are using the middle door to walk out onto the flat roof, which at no point did we agree to in either our responses to the applications or in conversations with our neighbours.

2. The flat roof (as built) extends across the entire width of the extension (decking has been laid across its full width) and the staircase to the garden (although it has not yet been built) will start at the edge of it.

In the Decision Notice dated 10 December 2018, granting planning permission, the council stated as follows:-

"The newly formed roof terrace would be adjacent to the boundary with No.9 ... Given the distance of the newly formed terrace to the boundary of no.13, coupled with the level of overlooking already achievable on site, it is considered not to result in undue harm to their residential amenities.)

That is, of course, redundant in light of what has in fact been built by our neighbours. They now have a roof terrace which extends across the width of their property, adjacent to the boundaries with no.13 and no.9, the effect of which has never been considered by the council whether from plans or in person.

The extension as built could have a serious detrimental effect on our privacy and also increases the potential for nuisance for us and our neighbours. The roof-terrace as built is substantial enough (and arguably intended) to be used in a very different manner to the roof-terrace which was intended by the plans, which could only be used as a walkway to the garden.

(16) On the same day, Ramesh Depala (Senior Planner) responded as follows: -

"We have identified several breaches on-site and have requested that the developers either comply with the approved plans... we would look to initiate formal action where they would be required to either remove the extension or comply with the approved plans."

(17) There followed a long period of inactivity where no further external building works were carried out by the Applicants. This leads to now and the current application.

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On 6 December 2021, the Applicants submitted a new Householder Application 2021/5066/P for the 'erection of parapet wall and installation of glazed balustrade and external steps from roof of rear ground floor extension to garden' (the Application).

As explained above, the structure which the Applicants have built does not comply with or conform to either extant planning application (2018/4262/P or 2019/0110/P). Rather, the Applicants have built a substantial roof terrace spanning the entire width of the flat roof of their extension, despite having no consent or permission to do so.

We would always have objected to such a design - had planning consent been sought in advance - because, in particular: -

1. The impact of the new use of the flat roof as a roof terrace will be significant and substantial to our property and our neighbours' properties. 13 BR's one bedroom and its only window are directly adjacent to the new roof terrace and on the same ground floor level. By far the most substantial consideration for the adjoining properties is the potential for noise from the use of the new roof terrace. The Applicants and their children will undoubtedly use the roof terrace extensively. Given the immediate proximity of our only bedroom to the proposed roof terrace, our primary concern is the nuisance that will inevitably and unavoidably be caused by its regular use.
2. The new roof terrace will substantially and significantly invade the privacy of all adjoining properties, given the new and increased potential for overlooking and noise from the new roof terrace. The original horse-shoe design of the three properties which comprise 9, 11 and 13 BR maximised privacy and minimised the potential for noise and light pollution. The Applicants agreed to make various changes to the design of the extension to minimise the potential for noise and light pollution, and so clearly recognise this as a material issue.
3. Throughout the many applications described above, one of our primary concerns has been the potential for loss of light to our property and to the lower ground floor flat (Flat A, 13BR) from any structure which adjoins (and sits above) our party wall. If the Application is granted, we and our downstairs neighbours are concerned that the Applicants would install trellis (or some other screening object) on and above our adjoining garden wall, as they have done on the adjoining wall with 9 BR, to 'prevent' nuisance and overlooking from the roof terrace. This would have a hugely detrimental impact on our properties.
4. The Application (if granted) will sanction the Applicants' abuse of the planning process to date, retrospectively approving an extension for which planning consent was never granted and setting a dangerous precedent in the borough for similar conduct.

We were assured by Camden Council that the Applicants would be held to the extent of the planning permission granted, which expressly prohibited the use of the flat roof as a roof terrace. However, the Applicants are in fact already using the flat roof as a terrace and are now seeking to retrospectively sanction the unlawful structure they have built. Respectfully, it would be objectionable if the Applicants were allowed to disregard the planning process in this way by simply building what they want and seeking the necessary consent after the event. Moreover, we are concerned that the Application will face less scrutiny because the

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structure already exists.

We oppose the Application in the strongest possible terms and invite Camden Council to intervene to protect the interests of the Applicants' adjoining neighbours (and prevent any further abuse of the planning process) by rejecting the Application.

Yours faithfully

Charles & Jennifer Goldblatt  
13 Burghley Road

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