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**From:** Elizabeth Richardson [REDACTED]  
**Sent:** 28 August 2022 20:35  
**To:** Planning Planning  
**Cc:** Leela Muthoora; Jenna Litherland; James Slater (Cllr); Ramesh Depala; Phil Gladstone  
**Subject:** Planning Application: 2021/5066/P

**[EXTERNAL EMAIL]** Beware – This email originated outside Camden Council and may be malicious Please take extra care with any links, attachments, requests to take action or for you to verify your password etc. Please note there have been reports of emails purporting to be about Covid 19 being used as cover for scams so extra vigilance is required.

Dear Planning Officers

**Objection to 2021/5066/P – Revised drawings submitted for 11 Burghley Road, London, NW5 1UG**

As you know we live at 13A Burghley Road (Garden Flat).

Thank you for your email informing us that the applicant has submitted revised drawings for the above application.

The revised drawings are **NOT sufficient for me to withdraw my objections to the application written on 31 December 2022**. Could you please refer to our objections submitted on 31 Dec 2021 and also the objections from Charles and Jennifer Goldblatt (13B Burghley Rd) which they submitted on 30 December 2021. Philip and I stated that we were in total agreement with all the points made in Charles and Jennifer's letter of objection. We strongly object largely because, as Camden Planning Department are aware, the roof of the extension is being used unlawfully (strong word but certainly without planning approval) as a balcony/terrace by the applicants causing overlooking, noise, lack of privacy for us as neighbours and loss of light by the applicants placing planters on the part of their flat roof which they are using as a terrace.

First of all, we would like to make the following points which are relevant to our objections:

1. The current development (as built), in the absence of an approved application for planning permission, is unlawful as it includes a raised platform (accessible via a door) and is therefore not compliant with permitted development rights.
2. There is no precedent for a roof terrace at the application site or adjoining properties apart from a relatively small raised platform granted planning permission under 2018/4262/P in December 2018. This platform was located close to No 9 Burghley Road but only measured 1.2 by 1.8 metres and led to steps into the garden. This would have been too small for people to stand around on, and as it led into the garden, social gatherings would have taken place there, ie, in the garden. It was also within the boundary wall of No 9.
3. Whilst the applicants might claim that overlooking was previously been possible from the "pre-existing" external metal staircase, this structure was never granted planning permission and has since been removed. The planning merits of that structure had therefore never been assessed and in any case the structure did not lend itself to social gatherings or otherwise being used as amenity space because it was designed for access to and from the rear garden.
4. We drew the Planning Department's attention to the following in a previous email dated 21 August 2022. One of the drawings submitted with the current application, namely drawing number 00.07 labelled "*Side elevation - viewed from No.13 as existing (prior to lower ground floor extension)*", shows a "pre-existing" trellis on top of the shared boundary wall. This trellis should be removed from the pre-existing drawings as it was only erected temporarily and removed once we complained that it blocked sunlight and daylight. Your officers in the Planning Department can corroborate our assertion that the trellis was

never permanently in situ (to be considered “established”) by referring to planning drawings from past applications and to evidence in photographs we sent to you in the past concerning our sunlight in front of our French windows. We wish to reinstate that we do not agree to the erection of a trellis on top of that wall as it would block sunlight/daylight from our rear bedroom window (and associated sunken external amenity area, which is in constant use) and create an undue sense of enclosure.

In the same email we drew the Planning Department’s attention to drawing titled 00:05 *Rear Elevation as existing before Lower Ground Floor Extension*. This is incorrect and misleading. We have always had French windows/doors which lead up some steep steps into our garden. We love this small area.

5. The description of the proposed development currently reads “*Installation of balustrade and external steps from roof of rear ground floor extension to garden of dwellinghouse. [Revised description for consultation purposes]*”. This should be amended to include reference to the use of parts of the flat roof as a roof terrace (as the use of the flat roof as built as a roof terrace is currently not lawful or otherwise established).

Our objections concern overlooking and therefore loss of privacy and noise disturbance from No 11 if permitted to use the extension roof as a terrace. We are also very concerned not to have our sunlight and daylight blocked from our garden by a trellis or any other means. From the very first application in 2017 we have stressed how important sitting in the daylight/sunlight by our French windows is to us.

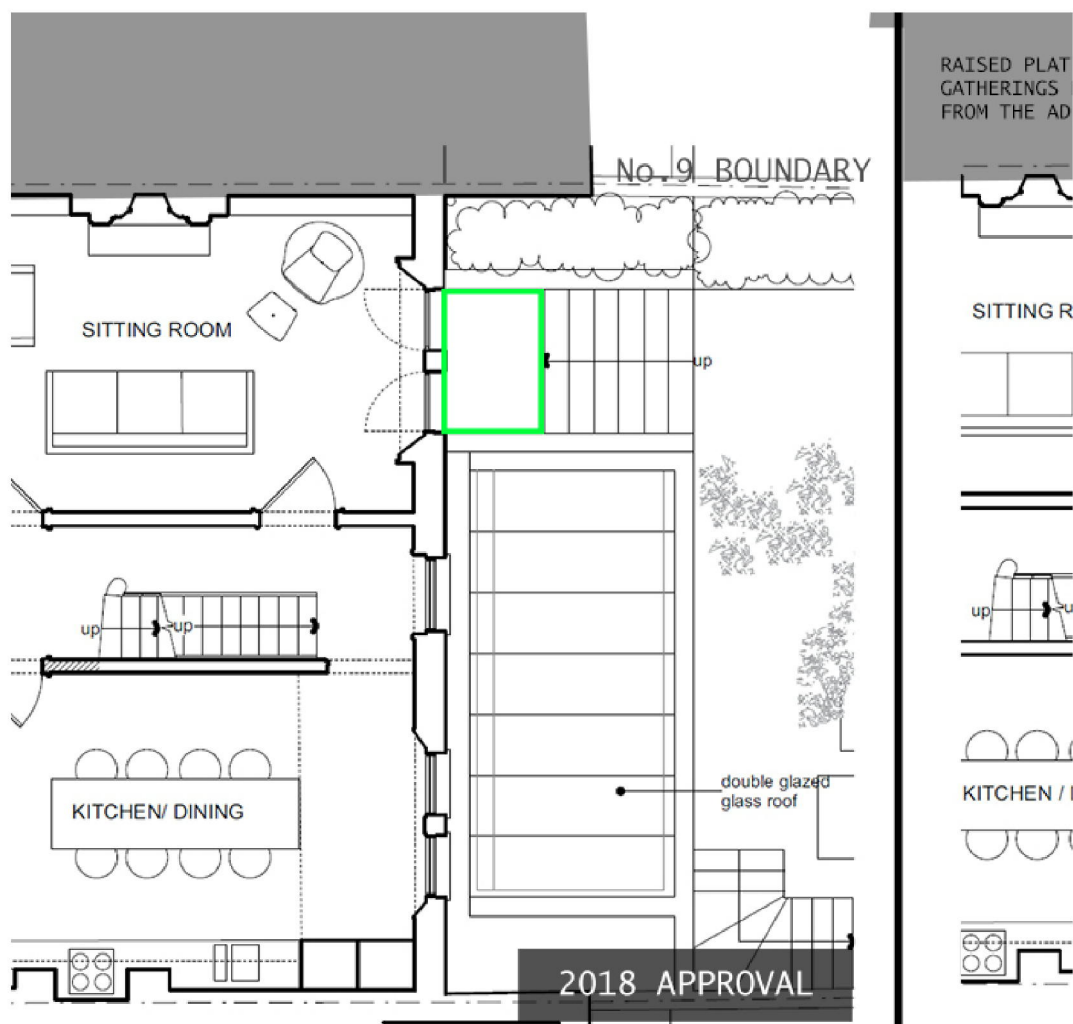
We will explain further our objections:

Our rear garden of our property already suffers from a significant lack of privacy due to overlooking opportunities, viz: overlooking from the windows of the “summer house” built by neighbours (not No 11 Burghley Road) at the rear of our garden. Camden Planning gave planning consent for this in the early 2000’s although at the time we had written strong letters of objection. Planners who have since visited our garden have all expressed astonishment that such a structure, looking straight into our bedroom, should have been given consent by Camden Planning Department. We mention this as we consider that we are becoming overlooked from all sides.

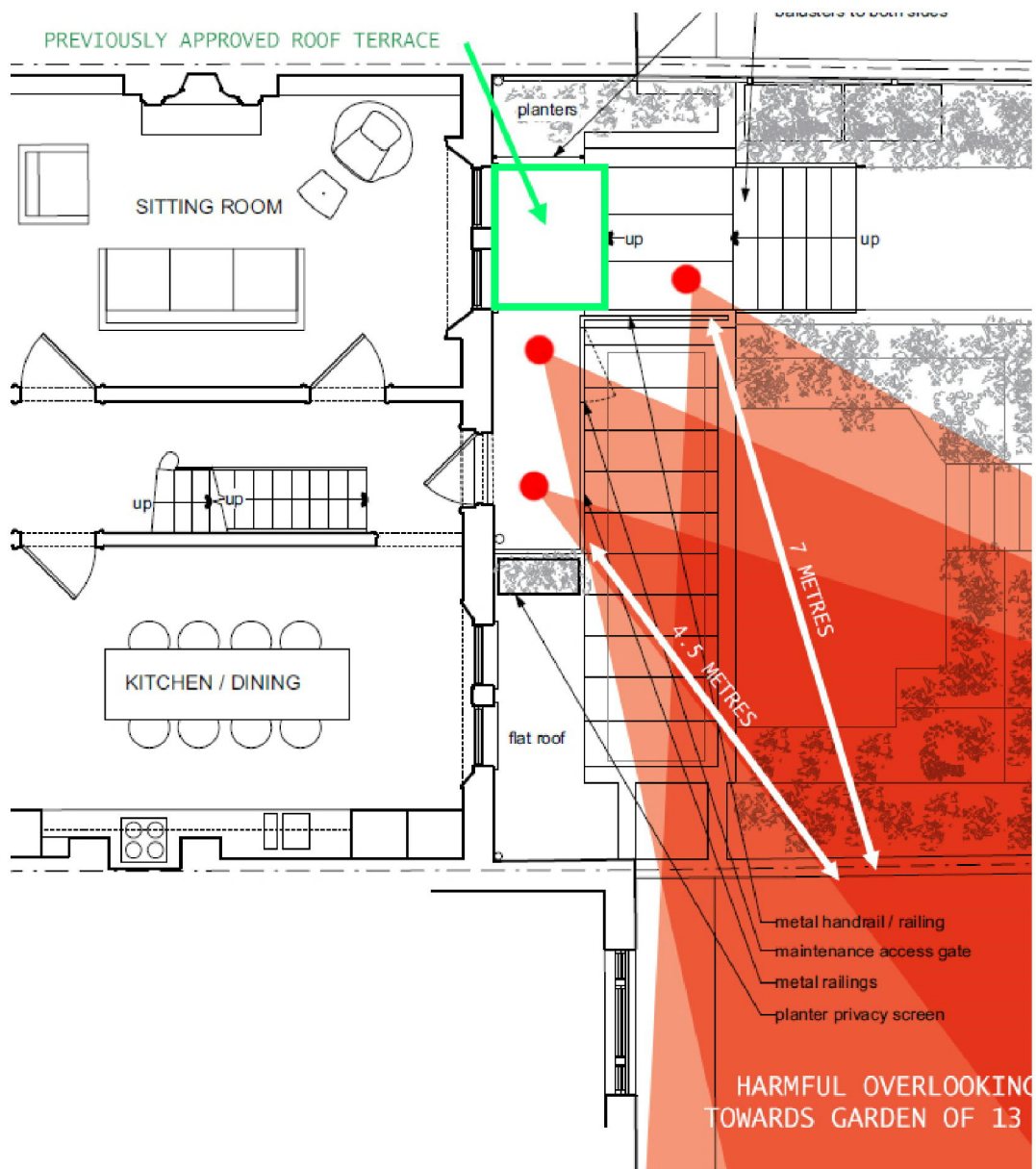
We had no objections to the raised platform approved in December 2018 under planning permission 2018/4262/P because:

1. The raised platform approved in 2018 was located as far as possible away from our boundary (approx. 7 metres, which in itself is quite a short distance and would have allowed some overlooking.
2. It was limited in size, measuring only 2.16 sq.m. in surface area (1.2 by 1.8 metres) - not sufficiently large to encourage frequent gatherings.
3. It was recessed/set back from the rear elevation wall of 9 Burghley Road
4. It was accessed directly from the living room of 11 Burghley Road, making it difficult for furniture to be placed on top of the raised platform as it would have been in the way of the doors; in other words, the raised platform was more akin to a passageway than a roof terrace.
5. *I would like to point out that one of the rules for allowing permitted developments is that no verandas, balconies or raised platforms are permitted under 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).*

However, the currently proposed raised platform is almost three times larger than what was approved in 2018 and projects beyond the rear elevation walls of 9 and 13 Burghley Road. In addition, a walkway is proposed connecting the centrally-aligned door with the enlarged platform. As a result, various overlooking opportunities are being introduced that would substantially harm what little privacy we have left. As shown on the following illustration, these overlooking distances would be as short as 4.5 metres when measured up to the boundary wall.



As we have attempted to explain before in emails, and as your officers who visited us, Emily Whittredge, Ben Farrant, Leela Muthoora, Jenna Litherland witnessed for themselves, due to the difference in land levels between plots, any overlooking from the proposed roof terrace associated walkway would be further reinforced. Not only would parts of the proposed walkway/ roof terrace be within 4.5 to 7 metres from our garden boundary wall, the platforms would also be situated no more than 1.1 metres above our rear garden level and, towards the back of our garden, almost on the same level. The potential for overlooking is shown in this illustration.









Paragraph 6.4.9 of the Camden Local Plan (2017) states that “Gardens, balconies and roof terraces are greatly valued and can be especially important for families. However, the densely built up nature of the borough means that the provision of private amenity space can be challenging, and the Council will require that the residential amenity of neighbours is preserved”. In the case of the current application, the residential amenity of 13 Burghley Road is arguably not preserved.

Furthermore, paragraphs 2.2 and 2.3 of the Camden Planning Guidance on Amenity (January 2021) state that “Interior and exterior spaces that are overlooked lack privacy, which can affect the quality of life of occupants. The Council will therefore expect development to be designed to protect the privacy of the occupants of both new and existing dwellings to a reasonable degree. Therefore, new buildings, extensions, roof terraces, balconies and the location of new windows should be carefully designed to avoid overlooking. The extent of overlooking will be assessed on a case-by-case basis. The places most sensitive to overlooking are typically habitable rooms and gardens at the rear of residential buildings.”

Accordingly, planning permission should be refused (we would argue) on the basis that the proposed development, especially in comparison with the raised platform approved in 2018, makes no effort to reduce overlooking between properties and therefore would cause undue harm to the occupants of 13 Burghley Road in terms of overlooking and lack of privacy (issues from which our rear garden already suffers and would be made worse by the proposed development).

We do not wish to have the daylight/sunlight blocked from our basement French windows (the boundary is south-facing) as this would give an undue sense of enclosure. We have explained this many times before in emails to Planning regarding No 11 Burghley Road’s Planning Applications. Under no circumstances can a trellis, fence or other structure be erected above our shared boundary wall closest to our rear bedroom window and where our sunken patio is located as this would breach BRE guidance on daylight, sunlight and create an undue sense of enclosure. It would also fail the BRE daylight tests relative to our French window (known as the 45-degree rule.) The Occupants of No 11 Burghley Road have pulled a rambling rose across this area and attached it to a trellis on their side elevation wall. I am asking that it is taken down and left in their garden area to grow as it is blocking our light by our French windows and someone must have walked along the roof of the extension to attach it to their trellis.

So, finally we would like to state that regardless of the outcome of the application, in the event that officers were minded to grant planning permission for the proposals (as shown, or in a revised form), **it should be subject to a planning condition preventing the use of the remaining parts of the roof as an amenity area. The condition should make it clear that large planters or furniture may not be placed on the remaining parts of the roof as they constitute development (in the case of large planters) or encourage/define residential use (which the condition seeks to restrict). Any planters used for privacy screening (however ineffective, in our opinion) should be placed on the inside of the railings as otherwise it would require frequent access over the restricted parts of the roof (regular gardening is not akin to infrequent maintenance).**

Planning officers will be aware that under planning legislation, the imposition of a planning condition preventing the use of the remaining parts of the roof as an amenity area must meet the 'six legal tests' (summarised at <https://www.gov.uk/guidance/use-of-planning-conditions>). One such requirement is that planning conditions are enforceable. By proposing an access gate for maintenance over the rest of the flat roof, the applicants are essentially enabling frequent access (a gate is hardly a barrier, on the contrary!) thus making it near impossible to ensure compliance with a planning condition preventing residential use of the remaining parts of the roof. The fact that the applicant has installed walk-on glass and has clearly used the flat roof in the past as an amenity area without planning permission indicates that with this gate in place, frequent access to the rest of the roof is not only possible, but likely. As a result, the proposed access gate should be removed from all planning drawings and any planning conditions should make it clear that the roof is not to be used for residential purposes. We would suggest that infrequent access for bona-fide maintenance purposes can be via a ladder or by accessing the roof via a window as would be the case with any other flat-roofed rear extension.

Yours faithfully

Elizabeth Richardson

Philip Gladstone

13A Burghley Road

Garden Flat

London

NW5 1UG

Mobile 