

**34 Ingham Road
London NW6**

Appeal Statement of Case
LPA ref 2019/6397/P

June 2020



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P L A N N I N G

| Contents | Page |
|---------------------------------------|-------------|
| 1. Introduction | 1 |
| 2. Background | 2 |
| Appeal site | 2 |
| Planning history | 2 |
| Appeal scheme | 4 |
| Surroundings | 5 |
| 3. Planning Policy Context | 8 |
| Development plan | 8 |
| Material considerations | 8 |
| 4. Assessment of Appeal Scheme | 9 |
| Introduction | 9 |
| Residential amenity | 10 |
| Compliance with policy | 13 |
| Examples of nearby roof terraces | 14 |
| 5. Conclusions | 16 |

Appendices (separate documents)

Appendix 1

Appeal decision letter for 34 Ingham Road - LPA ref 2016/5069/P and PINS ref APP/X5210/D/17/3170357

Appendix 2

Photographs of surrounding roof terraces

Appendix 3

Photographs taken from proposed roof terrace (looking backwards and forwards)

Appendix 4

Photographs taken from proposed roof terrace towards the rear of 32 Ingham Road

Appendix 5

Photographs taken from proposed roof terrace towards the rear of appeal 36 Ingham Road

Appendix 6

Appeal decision letter for 47 Burrard Road - LPA ref 2015/5585/P and PINS ref APP/X5210/W/16/3145069

1. Introduction

- 1.1. This Statement of Case (the Statement) is submitted by Verve Planning (the agent) in accordance with Section 78 of the Town and Country Planning Act 1990, on behalf of Mr William Jeffery (the applicant and appellant).
- 1.2. The Statement relates to an appeal against a decision of London Borough of Camden (the council) to refuse planning application ref 2019/6397/P (the application) at 34 Ingham Road, London NW6 (the site) for:

Formation of roof terrace with associated balustrade above two storey rear outrigger (the appeal scheme).

- 1.3. The reason for refusal is:

The proposed roof terrace, by reason of its siting, scale, design and proximity to neighbouring properties, would result in harmful overlooking and loss of privacy to nos. 32 and 36 Ingham Road, contrary to policy A1 (Managing the Impact of Development) of the London Borough of Camden Local Plan 2017.

- 1.4. This Statement sets out the written representations on behalf of the appellant in support of the appeal scheme, justifying why permission should be granted and the appeal **allowed**.

- 1.5. The remainder of the Statement is structured as follows:

- Section 2 sets out the background to the appeal;
- Section 3 summarises the relevant policy context;
- Section 4 provides the planning assessment; and
- Section 5 draws together the conclusions.

2. Background

Appeal site

- 2.1. This mid terrace house was built in the late 1800s on the northern side of Ingham Road. It has a rear courtyard garden.
- 2.2. The property is not in a conservation area and it is not listed.
- 2.3. A photograph of the rear of the application property is included below.



Planning history

- 2.4. The house originally comprised accommodation on the ground and first floors, including a two storey stepped outrigger to the rear. It has been extended over time to suit the owners' needs, whilst respecting the character of the host building and surrounding area, as well as respecting neighbours' amenity.
- 2.5. A summary of the more recent planning history is as follows:
 - 2009/1968/P – Erection of a single storey rear extension to dwellinghouse. Certificate of lawfulness (proposed) - Refused 17/07/2009;

- 2009/3915/P – Erection of a single storey side and rear extension to residential dwelling (Class C3) - Planning permission granted 06/10/2009. The scheme has been built out;
- 2014/5311/P – Proposed rear dormer to replace existing and rooflights to front roofslope - Certificate of lawfulness (proposed) granted 30/09/2014. The scheme was not built out;
- 2015/7260/P – Erection of rear dormer roof extension and "pod" roof extension above part of two storey rear addition - Certificate of lawfulness (proposed) granted 04/05/2016;
- 2016/5069/P - Alterations to the rear elevation at second floor level, including the creation of a roof terrace above two storey outrigger enclosed by new balustrade and timber privacy screens, and replacement of existing rear dormer window with a door – Refused 02/02/2017 – Appeal dismissed on 27 April 2017 (PINS ref: APP/X5210/D/17/3170357); and
- 2017/6848/P - Installation of rear dormer roof extension and 'pod' roof extension above part of two storey rear addition (Retrospective as already built out). Refused 10/05/2018. Appeal allowed on 14 November 2018 (PINS ref APP/X5210/D/18/3207725).

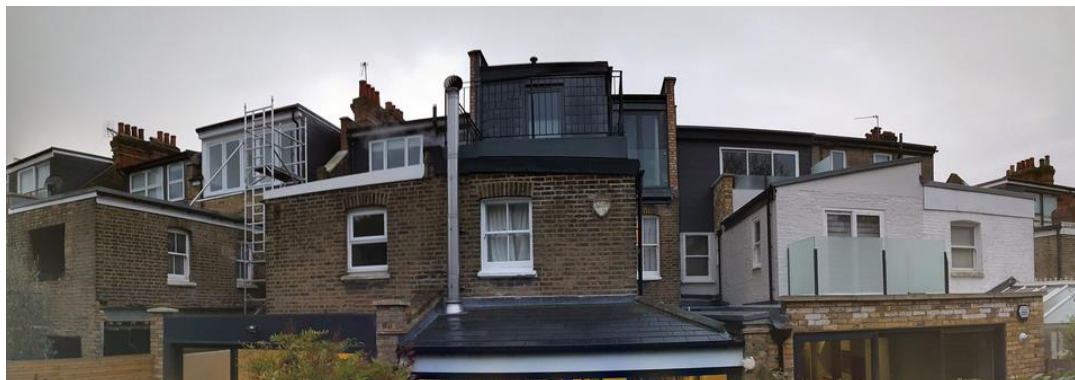
2.6. The appeal decision relating to the roof terrace (LPA ref 2016/5069/P and PINS ref APP/X5210/D/17/3170357) is included at **Appendix 1**. The appeal was dismissed due to the proposed timber privacy screens (that had not been erected at the time of the appeal) detracting from the character and appearance of the host building and its surroundings. The other elements that had already been erected at that time (i.e. a flat surface to form the roof terrace and black metal balustrades) have since been removed.

2.7. The photos **right and overleaf** taken in 2017 show the flat surface and balustrading before it was removed following the appeal decision. (NB - the timber privacy screens had not been erected at that time and it is the appearance of those solid screens that caused the Inspector concern).



Appeal scheme

- 2.8. The current appeal scheme (LPA ref 2019/6397/P) is for '*Formation of roof terrace with associated balustrade above two storey rear outrigger*'.
- 2.9. In effect it is seeking permission to erect the flat surface and black metal balustrading (as per the photo **below and on previous page**).



Representations

- 2.10. Three objections were received from the owner/occupier(s) of: Flat 2, 36 Ingham Road; Flat 1, 7 Weech Road; and 12 Weech Road. The reason for refusal does not refer to the properties to the rear of the appeal property on Weech Road.
- 2.11. Of relevance to this appeal are the points raised by the tenant of Flat 2, 36 Ingham Road, that are summarised as follows:
- *It will overlook directly into my first floor master bedroom which is at the rear of the building.*
 - *Anyone on it can look directly into my bedroom (onto my bed in fact), and also over my master bedroom.*
 - *balcony. I could not open my blinds at all without losing all privacy.*
 - *It will completely overlook all parts of my garden.*
- 2.12. These matters are assessed in Section 4 of this statement.

Surroundings

- 2.13. Number 32 Ingham Road is seen to the left of the appeal property (with the white fascia board).



- 2.14. The council's planning history indicates that neighbouring 32 Ingham Road has been extended, as follows:
- PSX0204672 – Certificate of Lawfulness for Proposed Development to convert the loft into habitable space, including the erection of a full width rear dormer and the installation of 4 roof lights on the front slope of the roof - Certificate of lawfulness (proposed) granted 16/06/2003; and
 - 2014/7565/P – Erection of a single storey rear infill extension and changes to the windows at first floor and second floor level on the rear elevation - Planning permission granted 16/02/2015.
- 2.15. The various floorplans for the above applications on the council's website indicate the following rooms are on the rear elevation of 32 Ingham Road:
- Ground floor – kitchen / living / dining
 - First floor - bedroom
 - Second floor – bedroom and stairwell/landing
- 2.16. Further detail on the relationship between number 32 and the appeal property is included in Section 4.

2.17. **Number 36 Ingham Road** is to the right of the appeal property in the photo (**below**).



2.18. It is divided into two self-contained flats with a shared entrance hall.

2.19. One flat occupies the ground floor. The second flat occupies the first and second floors (white painted outrigger with glazed balcony screen and extended roof dormer) and has two bedrooms.

2.20. Number 36 has been extended, as follows:

- 2014/7033/P - Erection of a rear and side infill extension at ground floor level and replacement of uPVC windows to front elevation with timber sash windows. Planning permission granted.
- 2014/7882/P - Installation of extended rear dormer and balcony, replacement of existing windows and associated works. Planning permission granted.
- 2015/3736/P - Conversion of 1 x 1 bedroom and 1 x 2 bedroom flats to a 1 x 4 bedroom dwelling house. Certificate of Lawfulness granted. This has not been implemented.
- 2016/6886/P - Fenestration alterations to increase width of rear dormer window, including new sliding door opening to existing first floor balcony, replace existing casement windows with double hung sash windows and relocation of the 1st floor level rear addition window in east elevation. Planning permission granted.

- 2.21. The various floorplans for applications 2014/7033/P and 2016/6886/P on the council's website indicate the following rooms are on the rear elevation of 36 Ingham Road:
- Ground floor - kitchen / living / dining (and bedroom facing into lightwell)
 - First floor - bedroom (with balcony) and kitchen
 - Second floor – bedroom (with balcony)
- 2.22. Further detail on the relationship between number 36 and the appeal property is included in Section 4.

Examples of other roof terraces

- 2.23. Many properties on Ingham Road, Weech Road and Fortune Green Road have roof terraces (as shown in the photos included in **Appendix 2**). The proximity of roof terraces to other properties is accepted in a high density urban area like this. Further detail is provided in section 4.

3. Planning Policy Context

- 3.1. Section 38(6) of the Planning and Compulsory Purchase Act 2004 explains that determination of applications should be made in accordance with the development plan unless material considerations indicate otherwise.

Development plan

- 3.2. Of relevance to this application, the development plan documents comprise the London Plan 2016 (Jan 2017 fix), the Camden Local Plan (July 2017) and the Fortune Green and West Hampstead Neighbourhood Plan (September 2015).
- 3.3. The following Local Plan policies are relevant to the scheme:
- A1 - Managing the impact of development; and
 - D1 – Design.

- 3.4. In terms of the Neighbourhood Plan, the following policies are relevant:
- Policy 2 (Design and Character)

Material considerations

- 3.5. Camden Planning Guidance is a material consideration, including:
- Altering and Extending Your Home (March 2019);
 - Amenity (March 2018); and
 - Design (March 2019).
- 3.6. The National Planning Policy Framework (NPPF 2019) is also a material consideration.
- 3.7. It should be noted that the reason for refusal only cites Policy A1.
- 3.8. Section 4 of this Statement assesses the appeal scheme against this policy.
- 3.9. It concludes that the scheme complies with the Development Plan and planning permission should be granted.

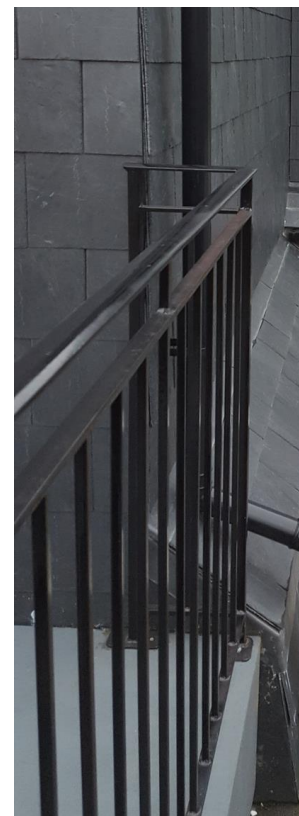
4. Assessment of Appeal Scheme

Introduction

- 4.1. The two main elements for consideration in the determination of the application were Design and Appearance and Impact on Amenity. The reason for refusal only relates to amenity (overlooking and loss of privacy), as follows:

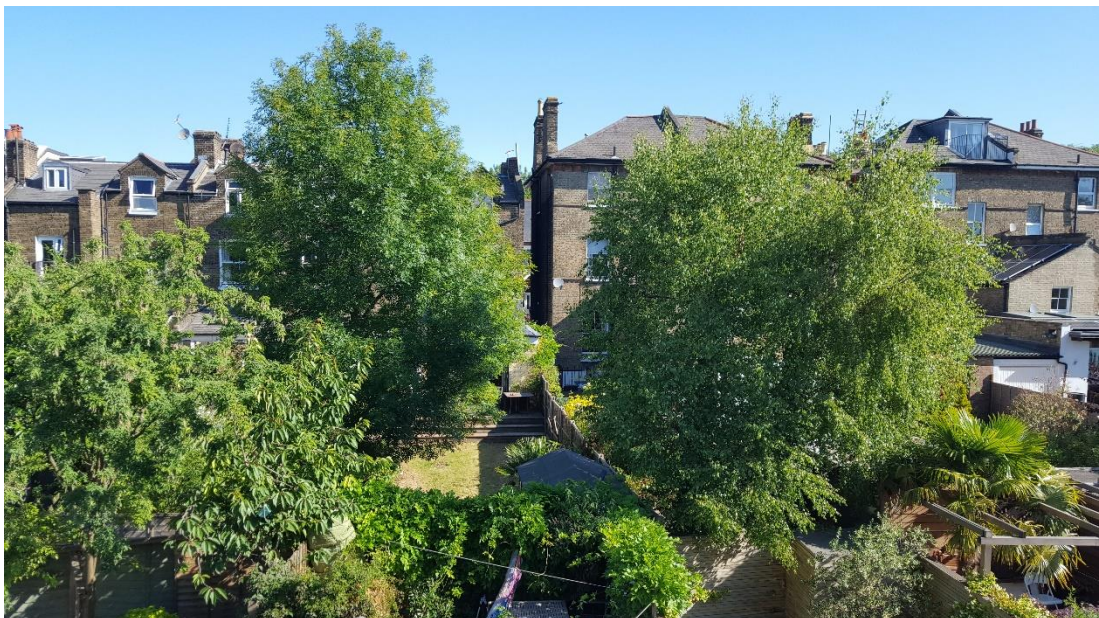
The proposed roof terrace, by reason of its siting, scale, design and proximity to neighbouring properties, would result in harmful overlooking and loss of privacy to nos. 32 and 36 Ingham Road, contrary to policy A1 (Managing the Impact of Development) of the London Borough of Camden Local Plan 2017.

- 4.2. The officer's delegated report notes that due to the traditional materials (black painted metal railings), 1.1m height and simple form, the balustrading is itself not a visually obtrusive addition to the property that would result in undue harm to the character and appearance of the property or surrounding area.
- 4.3. The photograph to the **right** was taken while the balustrading was temporarily in situ, before it was removed following the previous appeal decision (LPA ref 2016/5069/P and PINS ref APP/X5210/D/17/3170357 – see **Appendix 1**).
- 4.4. In addition, the principle of raising the outer edge of the remaining roof slope of the outrigger to form a flat surface has been accepted.
- 4.5. Therefore, it has been accepted in the officer's report that the appeal scheme complies with the design policies (ie D1 of the Local Plan and also Policy 2 of the Fortune Green & West Hampstead Neighbourhood Plan).
- 4.6. Further detail on the planning history and previous applications and appeals is included in the Planning Statement, prepared by Verve Planning (December 2019).



Residential amenity

- 4.7. The proposal would improve the living conditions of the occupiers of the appeal property by providing additional outdoor space. The main outdoor living and entertaining space for this house is in the rear garden. The proposed roof terrace is a secondary amenity space and would be used less frequently and by fewer people.
- 4.8. In terms of neighbouring residents at numbers 32 and 36 Ingham Road, the delegated officer's report agrees that the proposal is unlikely to result in undue harm in terms of noise, artificial light levels, overshadowing or loss of daylight/sunlight.
- 4.9. As such, the issue under appeal just relates to potential overlooking and loss of privacy to numbers 32 and 36.
- 4.10. It is not considered that side privacy screens are necessary on this roof terrace, as explained below. The visual impact of screens would also be unacceptable, as confirmed by the Inspector in the appeal against the previous roof terrace (LPA ref 2016/5069/P and PINS ref APP/X5210/D/17/3170357).
- 4.11. A person using the proposed roof terrace would naturally look over the back garden and surrounding rooftops (as illustrated in the view taken when seated, below). Due to the height and distances involved, there would be no harm to neighbours from overlooking.



- 4.12. However, for completeness, a number of photographs taken from the appeal terrace looking at all angles (including backwards and sideways towards the appeal property and numbers 32 and 36) are included in **Appendices 3, 4 and 5**. The appellant sat on a chair on the outrigger roof (on what would be the terrace) and took photos from a number of locations, marked by coloured stars).

4.13. **Appendix 3** shows photographs taken from a seated position the middle of the roof / terrace looking backwards towards the appeal property bathroom door and oblique views of 32's second floor bedroom window and 36's bedroom doors and terrace. Due to the separation distances involved, there would be no harmful overlooking or loss of privacy.

4.14. The potential impact on both neighbouring properties is considered in more detail below.

32 Ingham Road

4.15. In terms of number 32, it is important to note that the neighbours in this house have not objected.

4.16. Photographs taken from the proposed roof terrace on number 34 towards number 32 are included in **Appendix 4**. They show several directions of view for completeness. In reality, it is highly unlikely that anyone would sit looking back towards the rear elevation of number 32.

4.17. The view when sitting on the corner of the terrace nearest to number 32's garden is partially obscured by the flue.

4.18. The private patio by the glazed doors (the area used for sitting out) is also more or less completely obscured from view. The rest of the garden is visible from the existing rear facing bedroom of number 34 anyway.

4.19. There is no view of the first floor rear bedroom window of number 32, even when craning your neck, due to different angles and heights.

4.20. Looking back towards the second floor bedroom and landing, these two windows are visible. However, due to the distances involved and oblique angles, there would be no harmful overlooking or loss of privacy into the bedroom. The stairwell / landing is not a habitable room.

36 Ingham Road

4.21. The tenant in Flat 2 of number 36 has objected and the comments are summarised previously.

4.22. Photographs taken from the proposed roof terrace on number 34 towards number 36 are included in **Appendix 5**. They show several directions of view for completeness. As above, in reality it is highly unlikely that anyone would sit looking back towards the rear elevation of number 36.

4.23. In terms of amenity space for number 36 Ingham Road, it has two rear terraces (first and second floors) and a back garden. It is assumed that the ground floor flat has use of the garden and Flat 2 has use of both terraces.

- 4.24. When sitting on the corner of the proposed roof terrace nearest to number 36's garden, the private patio area by the glazed doors is obscured from view. The rest of the garden is visible but it is also visible from the existing rear facing bedroom of number 34 anyway.
- 4.25. There is only a very oblique view of the first floor rear bedroom French doors of number 36 (end of outrigger), even when craning your neck, due to different angles and heights.
- 4.26. The appellant has never seen anyone use the first floor terrace to number 36, nor any garden furniture on it. The balcony screens facing the appeal property and the rear are clear glass. The French doors are very occasionally open in hot weather but most of the time the blinds are pulled down, as with the side window.

4.27. The photographs in **Appendix 5** show views of the first floor terrace from the appeal terrace. However, it is important to note that the appellant already has direct views of this terrace from their side bedroom window (see photograph **right (top)**).



4.28. In addition, number 36's first floor terrace is highly visible from the appellant's garden and other neighbouring gardens (see photograph **right (middle)**). In a high density urban setting, especially with older properties, overlooking between rooms, gardens and terraces is a common occurrence.



4.29. Taking into account the above factors, it is not considered that potential overlooking of the first floor terrace would cause undue harm.

4.30. Views towards the first floor side facing bedroom window of the outrigger again would only be oblique and no harm caused. There are far more direct views of this window from number 34's side bedroom window (as illustrated in the photograph **right (bottom)**).



4.31. The first floor rear facing kitchen window is set behind the building line of 34 (the building line is staggered, as shown on the Site

Location Plan), and at a lower level than the proposed terrace. There would only be oblique views and no harm caused. The same applies to the ground floor bedroom window to 36 in the lightwell.

- 4.32. Looking back towards the second floor, the bedroom doors and terrace are visible. This is the terrace to Flat 2 that is used and contains a table and chairs. However, due to the distances involved, oblique angles and the part masonry balustrade to that terrace, there would be no harmful overlooking and loss of privacy.

Compliance with policy

- 4.33. The reason for refusal cites policy A1 'Managing the impact of development'. The policy states that the council will seek to protect the quality of life of occupiers and neighbours and that they will grant permission for development unless this causes unacceptable harm to amenity.
- 4.34. In accordance with part a) of Policy A1, the proposal will ensure the amenity of occupiers and neighbours is protected. Parts b and c are not relevant. Part d concerns mitigation measures and none are considered necessary, as explained above.
- 4.35. The proposal also complies with the relevant factors (e) listed under policy A1, as follows:
- e) Visual privacy, outlook – as illustrated above and in the appendices, the appellants already have views into the neighbouring properties from their existing windows and garden. Due to the oblique angles from the proposed terrace and the separation distances, the neighbours will still be able to enjoy levels of privacy that can be expected in this urban setting. The lightweight structures would ensure there would be no adverse impacts on their outlook either.
- 4.36. The officer's delegated report refers to Camden Planning Guidance (CPG). However, it is not cited in the reason for refusal.
- 4.37. The proposed roof terrace complies with CPG 'Altering and extending your home' in terms of overlooking. It is important to note that paragraph 4.1 of the CPG states that terraces are likely to be acceptable where there are a variety of additions or alterations to roofs which create an established pattern and where further development of a similar form would not cause additional harm. This is the case at the application property as there are a variety of terraces in the immediate area.
- 4.38. The roof terrace also accords with the CPG 'Amenity' and is designed to reduce potential overlooking of neighbours and from neighbours. Importantly, paragraph 2.2 of this CPG states that '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' (our emphasis).

4.39. Paragraph 2.3 of the CPG 'Amenity' continues:

"The places most sensitive to overlooking are typically habitable rooms and gardens at the rear of residential buildings. For the purposes of this guidance, habitable rooms are considered to be residential living rooms, bedrooms and kitchens. The area of garden nearest to the window of a habitable room is most sensitive to overlooking."

4.40. As demonstrated in the photographs included in **Appendices 3, 4 and 5**, views from the proposed roof terrace towards upper floor habitable rooms of 32 and 36 are at oblique angles and there are substantial separation distances involved. In addition, the neighbouring private garden areas nearest to their rear doors are obscured from view due to the angles and height differences involved. Importantly, the 'Amenity' CPG does not refer to overlooking of other balconies or terraces.

4.41. The appeal proposal complies with the 'Amenity' CPG and no undue harm would be inflicted upon the occupiers of these properties.

4.42. Finally, the proposal complies with the policies in the NPPF, in particular paragraph 127 (part f) relating to residential amenity in the 'Achieving well-designed places' section.

Examples of nearby roof terraces

4.43. As mentioned previously, photographs of neighbouring properties and others nearby along Ingham Road, Weech Road and Fortune Green Road are included in **Appendix 2**. They show that many of these properties have roof terraces. None have purpose-built side privacy screens and they all overlook neighbouring properties and gardens. The proximity of roof terraces to other properties is accepted in a high density urban area like this.

4.44. The photographs show rear facing terraces at the following properties:

- 16, 18, 28, 36 Ingham Road (north side – i.e. same side of road as application site);
- 7, 11, 13 and 27 Ingham Road (south side);
- 2, 3, 4, 6, 11 and 12 Weech Road (south side – backing on to Ingham Road north side properties, including application site);
- 68, 88, 90 and 94 Fortune Green Road (backing on to Ingham Road south side rear gardens); and
- 114 and 116 Fortune Green Road (backing on to Ingham Road north side rear gardens).

- 4.45. It is also worth noting an appeal decision dated 7 June 2016 for nearby 47 Burrard Road (LPA ref 2015/5585/P and PINS ref APP/X5210/W/16/3145069 – **Appendix 6**). Burrard Road is to the south of Ingham Road, at an angle. The Inspector observed in paragraph 5 of that appeal decision that ‘Such arrangements are particularly prominent amongst the dwellings to the rear along Ingham Road where terraces formalised by perimeter railings are commonplace’. Due to oblique angles and differing levels, he also did ‘not consider that any overlooking would be so significant as to constitute material harm to residential privacy’ (paragraph 8). The same applies to this current appeal at nearby 34 Ingham Road.

5. Conclusions

5.1. To conclude:

- The proposed roof terrace is acceptable from a design, character and appearance perspective, as confirmed in the officer's delegated report (and agreed by planning inspectors relating to previous appeals);
- Due to siting, scale, design and separation distances, (together with the configuration of neighbouring properties), there would be no undue harm caused from overlooking or loss of privacy to number 32 or 36 Ingham Road. Consequently, privacy screens are not necessary; and
- A number of other properties in the vicinity of the appeal site have projecting roof terraces (as shown in appended photographs), and none have privacy screens.

5.2. The appeal complies with Policy A1 of the Local Plan, the 'Amenity' CPG, the 'Altering and extending your home' CPG and the NPPF.

5.3. In accordance with paragraph 11 of the NPPF, the scheme accords with the development plan and, as comprehensively set out in Section 4, the appeal should be **allowed**.