
Appeal Decision

Site visit made on 2 September 2020 by Hannah Ellison BSc (Hons) MSc MRTPI

Decision by S R G Baird BA (Hons), MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25 September 2020

Appeal Ref: APP/X5210/D/20/3254472

34 Ingham Road, London NW6 1DE

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Will Jeffery against the decision of the Council of the London Borough of Camden.
 - The application Ref 2019/6397/P, dated 23 December 2019, was refused by notice dated 27 March 2020.
 - The development proposed is the creation of a roof terrace above a 2-storey outrigger enclosed by a balustrade.
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Decision

1. The appeal is dismissed.

Appeal Procedure

2. The site visit was undertaken by an Appeal Planning Officer whose recommendation is set out below and to which the Inspector has had regard before deciding the appeal.

Main Issue

3. The effect on the living conditions of occupiers at Nos 32 and 36 Ingham Road, with particular regard to overlooking and privacy.

Reasons

4. The appeal property is a two-storey terraced dwelling located in a predominantly residential area. It has an existing rear dormer with extension that projects out above the two-storey outrigger. Permission is sought to create a roof terrace above the full width and length of the remaining two-storey outrigger. There was a previous appeal¹ on this site for the same terrace. I have had regard to it as far as it is material to the assessment of the proposal before me.
5. The proposed terrace would be close to 2 rear facing windows on the second floor of No 32. The nearest window serves a staircase. However, the larger window serves a bedroom and there would be unobstructed views directly into this habitable room from the proposed terrace. Similarly, there are transparent windows/doors serving habitable rooms on the side and rear elevations of the first and second floors of No 36, all of which would be close to and in full view

¹ Appeal Ref: APP/X5210/D/17/3170357

from the proposed terrace. The design of the metal balustrades and lack of privacy screens would allow for direct overlooking of the affected habitable rooms at close range.

6. The appellant notes that the terrace would be a secondary amenity space for occupiers of No 34 and used less frequently. Additionally, it is suggested that users of the terrace may be naturally inclined to look over the rear garden rather than towards the rear of the properties and the affected windows. However, as the terrace is of a generous size, it has the potential to accommodate several people and leisure furniture. It would therefore be possible for users to face directly towards the adjacent windows and overlook their habitable rooms, thus resulting in a material loss of privacy for the occupiers of both Nos 32 and 36.
7. It appears that that No 36 is divided into two flats, with one occupying the ground floor and one on the first and second floors. The only external space for the upper floor flat appears to be 2 terraces on the rear elevation of the first and second floors. The forward location and elevated position of the proposed terrace would afford occupiers of No 34 direct overlooking to both terraces.
8. There may be existing views of the terraces at No 36 from the side bedroom window and the rear garden of No 34. However, the proposed terrace would make this existing poor relationship materially worse due to its elevated position, particularly with regards to No 36's first-floor terrace which is directly adjacent and below the proposal. Unlike the relationship from the bedroom window, the generous size of the proposed terrace would encourage occupiers to congregate for socialising and for prolonged periods of stay, resulting in an invasive loss of privacy.
9. The proposed terrace would provide extensive views of neighbouring gardens, including the most sensitive areas of Nos 32 and 36, as defined within the Camden Planning Guidance, Amenity (March 2018), as being nearest to the windows/doors. The existing flue on the rear of No 34 would not materially obscure these views. Whilst there may be an existing degree of overlooking of these areas from the rear windows of No 34, these windows appear to serve bedrooms therefore it is unlikely that occupiers would spend extensive periods of time at these windows. Additionally, they are at a lower level than the proposed roof terrace and thus any degree of overlooking would be less invasive than that which could occur from the raised position of the terrace. Moreover, in a dense urban area overlooking of windows and amenity areas is not unusual however for the reasons noted above this proposal would increase overlooking beyond a reasonable degree.
10. There are a variety of terraces and balconies to the upper floors of surrounding properties most of which are significantly smaller than that proposed. However, some appeared large enough to accommodate leisure furniture. Reference has also been made to an appeal decision at No 47 Burrard Road² where the Inspector found that due to the changes in levels, oblique angles and separation involved, the degree of overlooking would not be significant. However, I am uncertain whether the examples of larger terraces have been granted planning permission and I have not been provided with the full details of the previous appeal decision. I cannot therefore be certain that the examples are directly comparable to the proposal before me, particularly in relation to

² Appeal Ref: APP/X5210/W/16/3145069

the relationship with neighbouring windows. Moreover, notwithstanding the examples referred to, I have determined this appeal on its own merits.

11. Drawing all of the above together, this proposal would significantly harm the living conditions of occupiers at Nos 32 and 36 Ingham Road, contrary to Policy A1 of the London Borough of Camden Local Plan 2017, the Camden Planning Guidance, Amenity (March 2018) and Camden Planning Guidance, Altering and Extending Your Home (March 2019) which collectively seek to protect the quality of life of occupiers and neighbours.

Other Matter

12. It is acknowledged that occupiers of No 32 have not objected to the proposed development however a lack of opposition for a proposal is not a ground for granting planning permission and does not outweigh the harm I have identified above.

Conclusion and Recommendation

13. For the reasons given above and having regard to all other matters raised, I recommend that the appeal is dismissed.

Hannah Ellison

Appeal Planning Officer

Inspector's Decision

14. I have considered all the submitted evidence and the Appeal Planning Officer's report and on that basis the appeal is dismissed.

George Baird

INSPECTOR