

# Delegated Decision Report

<b>Application No:</b>	<b>24/0501</b>	<b>Statutory Period Expires:</b>	<b>12<sup>th</sup> March 2025</b>
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<b>Site:</b>	<b>4 Mons Close Newport NP20 5ET</b>		
<b>Proposal:</b>	<b>RETROSPECTIVE APPLICATION FOR THE CONSTRUCTION OF A RAISED DECK, RETAINING WALL, STEPS AND ASSOCIATED WORKS</b>		
<b>Applicant:</b>	<b>J Verallo</b>		
<b>Type:</b>	<b>Full</b>	<b>Ward:</b>	<b>Allt-yr-Yn</b>
<b>Decision:</b>	<b>REFUSED</b>		

## 1. BACKGROUND

1.1 The application seeks retrospective consent for a raised deck and retaining wall located along the rear boundary of the rear garden of 4 Mons Close. The development has been constructed and is subject to an ongoing enforcement investigation, under reference E24/0092.

## 2. SITE LOCATION AND CONTEXT

2.1 The application site comprises of a detached dwelling located within the Mons Close cul-de-sac. The application site borders the garden of 1 Mons Close, which is situated to the south west of the application site, and shares a boundary with 5 Mons Close which is situated to the north east of the application site. To the rear, the curtilage has been extended to encroach into the parcel of unregistered land. The site initially held a sloping garden, which has been removed to create the raised platform. The area of extended rear curtilage encompasses the site of a tree that was removed by the applicant prior to the commencement of the development.



Rear garden prior to the commencement of works

## 3. DESCRIPTION OF DEVELOPMENT

3.1 The proposal entails engineering works to the rear garden to change the levels and create a raised platform with a balustrade. The total height of the development is approximately 3.3m, 13m in width and 1m in depth. The platform is rendered in white and the balustrade is glass, there is an additional raised planter beyond the raised platform demarcating the rear boundary along with a newly erected rear boundary fence. This application seeks consent for the retention of the aforementioned development as well as the extension of the rear curtilage.

## 4. RELEVANT SITE HISTORY

4.1 None.

## 5. PLANNING POLICY

## 5.1 THE NATIONAL DEVELOPMENT FRAMEWORK: FUTURE WALES - THE NATIONAL PLAN 2040

Future Wales sets out the Welsh Government's land use priorities and provides a national land use framework for SDPs and LDPs. Future Wales concentrates on development and land use issues of national significance, indicating areas of major opportunities and change, highlighting areas that need protecting and enhancing and helping to co-ordinate the delivery of Welsh Government policies to maximise positive outcomes.

Policy 1 - Where Wales Will Grow

Policy 2 - Shaping Urban Growth and Regeneration - Strategic Placemaking

Policy 9 - Resilient Ecological Networks and Green Infrastructure

## 5.2 PLANNING POLICY WALES (EDITION 12) 2024

3.3 - Good design is fundamental to creating sustainable places where people want to live, work and socialise.

3.4 - Meeting the objectives of good design should be the aim of all those involved in the development process and should be applied to all development proposals at all scales.

6.2.12 A green infrastructure statement should be submitted with all planning applications. This will be proportionate to the scale and nature of the development proposed and will describe how green infrastructure has been incorporated into the proposal. In the case of minor development this will be a short description and should not be an onerous requirement for applicants. The green infrastructure statement will be an effective way of demonstrating positive multi-functional outcomes which are appropriate to the site in question and must be used for demonstrating how the step-wise approach (Paragraph 6.4.15) has been applied.

6.4.12 ....Where biodiversity enhancement proportionate to the scale and nature of the development is not proposed as part of an application, significant weight will be given to its absence, and unless other significant material considerations indicate otherwise, it will be necessary to refuse permission.

6.4.42 Permanent removal of trees, woodland and hedgerows will only be permitted where it would achieve significant and clearly defined public benefits. Where individual or groups of trees and hedgerows are removed as part of a proposed scheme, planning authorities must first follow the step-wise approach as set out in paragraph 6.4.15. Where loss is unavoidable developers will be required to provide compensatory planting (which is proportionate to the proposed loss as identified through an assessment of green infrastructure value including biodiversity, landscape value and carbon capture). Replacement planting shall be at a ratio equivalent to the quality, environmental and ecological importance of the tree(s) lost and this must be preferably onsite, or immediately adjacent to the site, and at a minimum ratio of at least 3 trees of a similar type and compensatory size planted for every 1 lost. Where a woodland or a shelterbelt area is lost as part of a proposed scheme, the compensation planting must be at a scale, design and species mix reflective of that area lost. In such circumstances, the planting rate must be at a minimum of 1600 trees per hectare for broadleaves, and 2500 trees per hectare for conifers. The planting position for each replacement tree shall be fit to support its establishment and health, and ensure its unconstrained long-term growth to optimise the environmental and ecological benefits it affords.

## 5.3 NEWPORT LOCAL DEVELOPMENT PLAN (2011-2026)

5.3.1 Policies GP2 (General Amenity), GP5 (Natural Environment) and GP6 (Quality of Design) of the Newport Local Development Plan 2011-2026 (adopted January 2015) are relevant to the determination of this application.

## 5.4 SUPPLEMENTARY PLANNING GUIDANCE

5.4.1 The Newport City Council House Extensions and Domestic Outbuildings Supplementary Planning Guidance (adopted August 2015) is also relevant to the determination of this application.

## **6. CONSULTATION RESPONSES**

6.1 **Tree Officer:** No objections

## **7. PUBLIC REPRESENTATIONS**

Neighbour and Ward member notification letters were sent on 23/06/2024.

7.1 NEIGHBOURS: 11 no. neighbours were consulted. 2no. representations were received. The comments are summarised below:

- Loss of privacy as a result of the height of the retaining wall and decked area.
- Potential noise disturbance during the use of the platform and decked area
- Impact on value of property
- Potential for habitation of rats
- Overbearing impact to neighbouring gardens

## **8. ASSESSMENT**

### **8.1 Principle of Development**

8.1.1 The application site is located within a settlement boundary as designated by the maps contained within the Newport Local Development Plan 2011 – 2026 (Adopted January 2015). Therefore, the principle of development is accepted, subject to being in accordance with the above policies.

### **8.2 Character and Appearance**

8.2.1 The House Extensions and Domestic Outbuildings SPG states that a raised amenity space should relate sympathetically to the existing building and the streetscape by virtue of its size, design and materials. The decked area and steps have been designed with a modern look and has created a pleasant and well looked after area and amenity space. Accordingly there is no concern or objection raised in respect of design or visual impact.

8.2.2 The curtilage of the property has been extended into unregistered land on a lane between the application site and rear gardens of properties along Allt-yr-Yn View. Given that this area is not visible from the public realm, there would be no unacceptable adverse impact upon character and appearance of the area.

### **8.3 Residential Amenity**

8.3.1 The adopted House Extensions and Domestic Outbuildings Supplementary Planning Guidance states a raised amenity space that substantially reduces natural light, perceived space or privacy in neighbouring habitable rooms or back gardens will not be acceptable. It is deemed that the scale and location of the raised platform affords users a significant amount of overlooking into the private rear amenity areas and internal rooms of the neighbouring properties mainly No 5 Mons Close. When stood on the raised area, there are clearer views into the ground floor and first-floor windows of 5 Mons Close. The distance between the closest edge of the plateau to the habitable first floor window at 5 Mons Close is approximately 6m. Prior to the commencement of works, the distance from the corner of the highest point of the garden would have been approximately 13.5m away from the nearest habitable window and due to the previous arrangement of the garden area did not allow the space to be utilised in such a way that privacy levels would be prejudiced to an unacceptable degree. Therefore, the plateau has been extended significantly closer to the habitable window to the neighbouring property. Due to the depth and potential use of the plateau, the raised amenity space substantially reduces privacy into the habitable windows and garden of 5 Mons Close when residents are on the raised area, causing detrimental harm to neighbouring amenity, contrary to the SPG and GP2. It is considered that the relationship between the application site and the neighbouring property is such that it could not be acceptably mitigated by the use of a privacy screen or other boundary treatment.

8.3.2 Compared to the previous arrangement of rockeries, slopes and paving that existed prior to the works taking place, the development has resulted in the creation of a level and raised terrace providing a formal seating area significantly increasing the intensity of which the space can be used. The works have created a larger surface to allow the area to be used for sitting out and socialising and have involved an increase in height and prominence in closer proximity to the rear elevation of the neighbouring property. The raised amenity space has

caused an appreciable adverse impact on privacy and perceived overlooking to neighbouring properties resulting in an unacceptable overbearing impact in particular due to the proximity to the rear first floor bedroom windows of No. 5 Mons Close. The scheme is contrary to Policy GP2 of Newport Local Development Plan 2011-2026 (adopted January 2015) and the adopted House Extensions and Domestic Outbuildings SPG.

- 8.3.3 Concerns were raised by the occupiers of 1 Mons Close regarding the potential overlooking and privacy loss into the neighbouring garden and habitable windows. Whilst this is noted, the fencing and hedging along the boundary helps to block views from the plateau into the rear garden. Additionally, the house is located some 14m away from the decked area, which is a considerable distance away to not affect the habitable rooms at 1 Mons Close. Notwithstanding the distance, the decked area has created a degree of overlooking into 1 Mons Close, contrary to policy GP2.
- 8.3.4 It is noted that the neighbouring property at 5 Mons Close has a raised terrace area, however this does not allow the same level of overlooking into the garden and habitable rooms at no 4 due to its scale and position.
- 8.3.5 With regards to the extension of curtilage, it is not considered that there would be a demonstrative harm to neighbouring occupiers or residential amenity.

#### 8.4 **Biodiversity**

- 8.4.1 The existing garden prior to the development sloped upwards, and comprised of a number of shrubs and some planting. A tree was situated immediately behind the garden fence. Aerial imagery of the tree indicates that the tree was mature and provided significant positive visual impact. The tree was removed as a result of the extension of curtilage. The tree stump remains and is now situated within the application site. It is therefore considered that paragraph 6.4.42 is applicable to the assessment of this application which outlines the need for a Green Infrastructure Statement and appropriate net-benefit for biodiversity as well as setting a replanting ratio for any felled trees. Should this application be progressed with a positive recommendation either details of replanting/biodiversity enhancement would be sought prior to determination or would be secured via condition.
- 8.4.2 Paragraph 6.2.12 of Planning Policy Wales (PPW) Edition 12 states that a Green Infrastructure Statement (GIS) should be submitted with all planning applications and that this will be proportionate to the scale and nature of the development and will describe how green infrastructure has been incorporated into the proposal. In the case of minor development this will be a short description and should not be an onerous requirement for applicants. The green infrastructure statement will be an effective way of demonstrating positive multi-functional outcomes which are appropriate to the site in question and must be used for demonstrating how the step-wise approach (Paragraph 6.4.15) has been applied.
- 8.4.3 No GIS has been submitted with the application and where a site has been cleared prior to development its biodiversity value should be deemed to have been as it was before any site investigations or clearance took place. A net benefit for biodiversity must be achieved from that point and the existing garden is considered as being the site's baseline.
- 8.4.5 Policy 9 of Future Wales states that in all cases, action towards securing the maintenance and enhancement of biodiversity (to provide a net benefit), the resilience of ecosystems and green infrastructure assets must be demonstrated. Policy GP5 of the NLDP supports this and states that proposals will be expected to maintain, protect, and enhance ecological networks and features of importance for biodiversity.
- 8.4.6 In this case no biodiversity enhancement or GI statement has been submitted to accompany the application. In accordance with section 6.4.12 of PPW 12 "*Where biodiversity enhancement proportionate to the scale and nature of the development is not proposed as part of an application, significant weight will be given to its absence, and unless other significant material considerations indicate otherwise, it will be necessary to refuse permission*". Accordingly the lacking of this detail will form part of the reason for refusal.

#### 8.5 **Other Matters**

- 8.5.1 It is noted that the applicant has claimed that the structure has been constructed to retain

the land to the rear and if the structure is removed there could be a potential impact on public safety. No evidence has been provided to support this claim therefore it has been afforded limited weight in the assessment of this application. However, should a need for a retaining structure have been demonstrated it would not provide a justification for a raised platform of this scale nor would it justify the adverse impact upon the living conditions of neighbouring occupiers.

## **9. OTHER CONSIDERATIONS**

### **9.1 *Crime and Disorder Act 1998***

Section 17(1) of the Crime and Disorder Act 1998 imposes a duty on the Local Authority to exercise its various functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent, crime and disorder in its area. This duty has been considered in the evaluation of this application. It is considered that there would be no significant or unacceptable increase in crime and disorder as a result of the proposed decision.

### **9.2 *Equality Act 2010***

The Equality Act 2010 identifies a number of 'protected characteristics', namely age; disability; gender reassignment; pregnancy and maternity; race; religion or belief; sex; sexual orientation; marriage and civil partnership.

### **9.3 Having due regard to advancing equality involves:**

- removing or minimising disadvantages suffered by people due to their protected characteristics;
- taking steps to meet the needs of people from protected groups where these differ from the need of other people; and
- encouraging people from protected groups to participate in public life or in other activities where their participation is disproportionately low.

### **9.4 The above duty has been given due consideration in the determination of this application. It is considered that there would be no significant or unacceptable impact upon persons who share a protected characteristic, over and above any other person, as a result of the proposed decision.**

### **9.5 *Planning (Wales) Act 2015 (Welsh language)***

Section 31 of the Act clarifies that impacts on the Welsh language may be a consideration when taking decisions on applications for planning permission so far as it is material to the application. This duty has been given due consideration in the determination of this application. It is considered that there would be no material effect upon the use of the Welsh language in Newport as a result of the proposed decision.

### **9.6 *Newport's Well-Being Plan 2018-23***

The Wellbeing of Future Generations (Wales) Act 2015 imposes a duty on public bodies to carry out sustainable development in accordance with the sustainable development principle to act in a manner which seeks to ensure that the needs of the present are met without compromising the ability of future generations to meet their own needs. This duty has been considered during the preparation of Newport's Well-Being Plan 2018-23, which was signed off on 1 May 2018. The duty imposed by the Act together with the goals and objectives of Newport's Well-Being Plan 2018-23 have been considered in the evaluation of this application. It is considered that there would be no significant or unacceptable impact upon the achievement of wellbeing objectives as a result of the proposed decision.

## **10. CONCLUSION**

### **10.1 Compared to the previous arrangement of rockeries, slopes and paving that existed prior to the works taking place, the development has resulted in the creation of a level and raised terrace providing a formalised area that can be intensively used. Due to its scale and location, the raised terrace results in an unacceptable level of overlooking and an overbearing impact to the detriment of the living conditions of the occupiers of 5 Mons Close. The development is a detriment to residential and neighbouring amenity, contrary to Policy GP2 of the Newport Local Development Plan 2011-2026 (adopted January 2015).**

## **11. RECOMMENDATION**

### **REFUSED**

01 Due to its scale and location, the raised terrace results in privacy loss and perceived overlooking into no 5 Mons Close. The development is a detriment to residential and neighbouring amenity, contrary to Policy GP2 of the Newport Local Development Plan 2011-2026 (adopted January 2015).

02 The proposal has resulted in the net loss of green infrastructure to the rear of the application site and no mitigation or ecological enhancement is proposed nor has a Green Infrastructure Statement been provided. This results in an adverse impact on biodiversity and ecosystem resilience, which is contrary to Policy SP1, SP9 and GP5 of the Newport Local Development Plan 2011-2026 (adopted January 2015), Chapter 6 of Planning Policy Wales (Edition 12) and Policy 9 (Resilient Ecological Networks and Green Infrastructure) of Future Wales.

### *NOTE TO APPLICANT*

01 This decision relates to plan Nos: Site Location Plan; Site Photograph 1-7, Site Plan with Dimensions

02 The development plan for Newport is the Newport Local Development Plan 2011 – 2026 (Adopted January 2015). Policies GP2, GP5 and GP6 were relevant to the determination of this application.

03 Due to the minor nature of the proposed development (including any demolition) and the location of the proposed development, it is considered that the proposals did not need to be screened under the Environmental Impact Assessment Regulations.