

PLANNING STATEMENT

Re-application following refusal 25/0433

Proposed Rear Deck and Associated Works at
34 Grove Park Drive,
Newport, NP20 6YE

Prepared by Siemens Architecture for
Mr W Wormald
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1. INTRODUCTION

- 1.1 This Planning Statement is submitted by Siemens Architecture on behalf of the applicant, Mr W Wormald, in support of a full householder planning application for the installation of a deck to the rear of 34 Grove Park Drive, Newport, NP20 6YE ("the application site"), together with associated works.
- 1.2 The application is submitted following the refusal of an earlier application for decking at the site (application 25/0433) and follows the grant of a Lawful Development Certificate ("LDC") for a two-storey rear extension at the same property (application 26/0127). This Statement explains how the current scheme has been revised to overcome the Council's previous reason for refusal, and sets out the principal consideration on which the application turns: that the impact of the proposed deck on the neighbouring property at No. 33 Grove Park Drive would be materially less than the impact of the rear extension which the Council has already confirmed may be built as of right.
- 1.3 This Statement should be read alongside the submitted application drawings **2607-PL01, PL02, and PL03**, and the application form.

2. THE SITE AND ITS SURROUNDINGS

- 2.1 The application site comprises a part two-storey, part three-storey detached dwelling within the Malpas ward of Newport. It lies within the defined settlement boundary and is not subject to any statutory designation that would constrain the principle of the development. There is no objection in principle to a deck at the property.
- 2.2 The defining characteristic of the site, for the purposes of this application, is its topography. The land falls across the site such that the finished floor level of the ground floor of No. 34 sits approximately a full storey higher than the adjoining ground level of the neighbouring property to the east, No. 33 Grove Park Drive. The consequence is that any structure at the rear of No. 34 is, by virtue of the levels rather than its own height, elevated relative to No. 33. This level difference is the root of the relationship between the two properties and is central to the assessment below.
- 2.3 The rear garden of No. 34 is orientated to the South and the existing boundary treatment with No. 33 comprises a dense leylandii hedge approximately 2.4m high. The only neighbour materially affected by the proposal is No. 33.

3. THE PROPOSAL

- 3.1 The application seeks full planning permission for a deck to the rear of the dwelling, providing usable external amenity space at the level of the ground floor, together with associated works. The deck would measure approximately 3m in depth and 5m in width, with the deck surface sitting approximately 2.6m above the adjacent ground level of No. 33, and set between 3 and 3.3m from the shared eastern boundary.
- 3.2 In direct response to the Council's previous concern regarding privacy and overlooking towards No. 33, the scheme incorporates a solid screen of 1,800mm in height along the entire eastern edge of the deck – the edge facing No. 33. The screen is designed to support a living "green wall", providing a permanent, planted barrier that physically prevents direct overlooking from the deck towards the garden and rear elevation of No. 33, while also delivering a biodiversity and green-infrastructure benefit.
- 3.3 The deck is open in form and single level. It introduces no built mass above the level of the 1,800mm eastern screen, has no walls or roof, and allows daylight and sunlight to pass freely around it. In this respect it is fundamentally different in character from an enclosed or built structure.

- 3.4 The deck would be constructed in timber with wire mesh guarding, including the infrastructure for the green screen, chosen to sit comfortably against the host dwelling.

4. RELEVANT PLANNING HISTORY

- 4.1 The two applications directly relevant to this proposal are summarised below.

Ref.	Proposal	Decision	Date
25/0433	Installation of decking to the rear of the property and associated works	Refused	31.07.25
26/0127	Lawful Development Certificate for proposed rear extension	Granted	21.05.26

- 4.2 Application 25/0433 (decking) was refused for a single reason: that, by reason of its location, height, scale and design, the decking was an unneighbourly form of development with a significant adverse effect on the privacy and amenity of the occupiers of No. 33, contrary to Policy GP2 of the Newport Local Development Plan. No other reason for refusal was raised. No objection was taken to the principle of a deck, to any impact on other neighbours, or to the effect of the deck on the character of the area. The sole matter in issue is therefore the amenity relationship with No. 33.
- 4.3 Application 26/0127 confirmed, by means of a Lawful Development Certificate, that a two-storey rear extension at the property constitutes permitted development under Schedule 2, Part 1, Class A of the Town and Country Planning (General Permitted Development) Order 1995 (as amended). On the Council's own assessment, the certified extension would project 3m from the existing rear elevation, would be 5.4m wide, would rise to 4.8m at the eaves (measured from the lowest ground level) and 5.3m at the ridge, and would be sited only 2.7m from the nearest shared boundary. That extension may now be carried out lawfully, without any further grant of planning permission and without any control over its detailed effect on No. 33.

5. PLANNING POLICY CONTEXT

- 5.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires applications to be determined in accordance with the development plan unless material considerations indicate otherwise. The development plan is the Newport Local Development Plan 2011–2026 (Adopted January 2015).
- 5.2 Policy GP2 (General Amenity) is the policy on which the refusal of 25/0433 was based. It provides that development will be permitted where, as applicable, there will be no significant adverse effect on local amenity – including in terms of privacy, overbearing and light – and where the form of development is not detrimental to the visual amenities of nearby occupiers. The operative threshold in the policy is significance: GP2 does not resist all amenity effect, only a significant adverse effect.
- 5.3 At the national level, Planning Policy Wales (Edition 12, 2024) places good design at the heart of the planning system. PPW is also clear that the planning system does not exist to protect the private interests of one person against the activities of another; the effect of a proposal on neighbouring amenity falls to be judged in the public interest, against a general standard of good neighbourliness, rather than by reference to the particular concerns of an individual occupier. Future Wales – the National Plan 2040 (Policy 9) supports resilient ecological networks and green infrastructure, to which the proposed green wall makes a positive contribution.
- 5.4 A material consideration of particular weight in this case is the fallback position created by the grant of LDC 26/0127. This is addressed in Section 6 below.

6. PLANNING ASSESSMENT

The single issue

- 6.1 As set out above, the only matter in dispute is the effect of the proposal on the amenity of No. 33 – specifically privacy, overlooking and any overbearing effect. The assessment below addresses that issue directly and, critically, against the correct baseline.

The fallback position

- 6.2 It is well established that a lawful “fallback” – what could be done on the site if planning permission were refused – is a material consideration in the determination of a planning application. The weight to be attached to a fallback depends on the likelihood of its being carried out. The leading authority, *R (Mansell) v Tonbridge and Malling Borough Council* [2017] EWCA Civ 1314, confirms that it is sufficient for there to be a real prospect of the fallback being implemented; the prospect need not be more likely than not.
- 6.3 In this case the fallback is far stronger than a mere real prospect. The Council has itself confirmed, through the grant of LDC 26/0127, that the two-storey rear extension is permitted development that may be built without any further consent. There can be no clearer or more certain evidence of a genuine and available fallback than a Lawful Development Certificate issued by the determining authority. The applicant retains the right to implement that extension at any time.
- 6.4 The fallback therefore sets the baseline against which the amenity impact of the proposed deck should properly be judged. The relevant comparison is not between the deck and an undeveloped rear elevation, but between the deck and the development that the site can lawfully accommodate in any event. Assessed against the right baseline, a development that has a lesser effect on a neighbour than the lawful alternative cannot reasonably be characterised as having a significant adverse effect for the purposes of Policy GP2.

Comparative impact on No. 33

- 6.5 Measured against that baseline, the proposed deck would have a materially lesser effect on the amenity of No. 33 than the certified extension, in each of the respects that informed the previous refusal:
- (a) Overbearing impact and outlook. The certified extension is a permanent, two-storey, solid structure – 5.4m wide and 4.8m high to the eaves – sited only 2.7m from the shared boundary. A built form of that mass so close to the boundary would have a substantial overbearing and enclosing effect on No. 33 and would materially alter the outlook from its rear garden and windows. The proposed deck, by contrast, is open and single level, introduces no comparable mass, and does not enclose or dominate the neighbouring space.
 - (b) Daylight and sunlight. A two-storey extension positioned close to the boundary would interrupt daylight and sunlight reaching No. 33 in a way that an open deck – which allows light to pass around it – simply cannot.
 - (c) Privacy and overlooking. This was the Council’s specific concern in respect of the deck; yet the certified extension introduces equivalent overlooking. The ground-floor accommodation of the extension would have an almost entirely glazed rear elevation giving direct and permanent views over the rear garden of No. 33. Under condition A.3(b) of the GPDO, only upper-floor windows in a side elevation must be obscure-glazed; rear-facing first-floor windows may be clear-glazed and fully openable and are subject to no planning control whatever. The fallback therefore permits elevated overlooking of No. 33, permanently and without any mitigation.

- 6.6 The proposed deck, by contrast, addresses overlooking head-on. The 1,800mm green wall along the eastern edge physically interrupts views from the deck towards No. 33 at the very point of concern. The deck surface sits below the level of the extension's first floor, and the screened eastern boundary ensures the deck does not create the direct overlooking relationship that the Council was concerned to avoid.
- 6.7 It follows that in every respect material to the previous reason for refusal – mass and overbearing effect, daylight and sunlight, and privacy and overlooking – the proposed deck would have a lesser impact on No. 33 than the development the Council has already accepted may be built as of right. It would be neither consistent nor reasonable to refuse the lesser development on amenity grounds while the greater development is permitted without any control.

Response to the reason for refusal and to Policy GP2

- 6.8 The previous reason for refusal cited the location, height, scale and design of the decking. The current scheme has been revised to respond to each of those matters: the deck has been set back from the side elevation by 300mm, the depth has been reduced to 3.6m, and the eastern boundary is now treated with a 1,800mm green wall screen to remove the direct overlooking relationship with No. 33.
- 6.9 Against Policy GP2(i), the operative question is whether the proposal would give rise to a significant adverse effect on amenity. For the reasons above, and assessed against the lawful fallback baseline, the residual impact of the deck on No. 33 would not be significant: the mitigation removes the direct overlooking; the open form avoids any overbearing or daylight effect; and the overall impact is demonstrably less than that of the permitted extension. The proposal therefore accords with Policy GP2.
- 6.10 The proposal is also consistent with the standard of good neighbourliness in Planning Policy Wales. The relationship with No. 33 has been actively designed for rather than ignored, and the green wall delivers an amenity and biodiversity benefit consistent with national green-infrastructure objectives in Future Wales.

7. CONCLUSION

- 7.1 The single issue raised by the refusal of 25/0433 is the amenity relationship between the proposed deck and No. 33 Grove Park Drive, arising from the difference in levels between the two properties.
- 7.2 The Council has confirmed, through LDC 26/0127, that a two-storey rear extension may be built at the property as of right. That extension would have a greater overbearing effect, a greater daylight and sunlight effect, and – critically – a greater overlooking effect on No. 33 than the proposed deck, since it introduces clear-glazed, openable first-floor windows at a height above the deck, permanently and without mitigation. That lawful fallback is the correct baseline against which this application should be judged.
- 7.3 The revised deck scheme directly addresses the Council's previous concern through the 1,800mm green wall screen along the eastern boundary, and is open and single level in form. Assessed against the fallback, it would have a materially lesser impact on No. 33 than the development the Council has already accepted. It would not give rise to a significant adverse effect on amenity and accordingly accords with Policy GP2 and with national policy.
- 7.4 There are no material considerations that would justify withholding permission. It would be inconsistent and unreasonable to refuse the lesser of two developments affecting the same neighbour while the greater is permitted as of right. Planning permission is respectfully requested.