

Planning comments Reference: 24/0810

REDACTED

1. We welcome the applicant's stated aim of 'obscuring overlooking into adjacent garden', however the proposed plans do not address the same and further consideration needs to be given to the first tier, specifically the newly developed patio and balustrade.
 - The work carried out on the first tier has not in any way increased overlooking into the garden of no.3, as confirmed in the officer's report for the first planning application (24/0810) "When assessing the views afforded to no.3 Pontymason Close, it should be noted, views could be afforded from this tier prior to works into 3 Pontymason's garden" (point 8.3).
2. The sketch of the original garden in the plans provided is misrepresentative of the land as it were prior to the new development. *REDACTED*, the area to the left of the steps (facing towards the properties and adjacent to number 3) included a shrubbed zone, providing a natural privacy and safety buffer between the two gardens that deterred convenient access and ready use of the space. The area marked on the original plan as 'patio' (see document reference 'SD991-01C Original') was not a patio, despite the plans indicating so. It only became a patio (and associated seating area) as a result of the new development.
 - We previously proved this is an inaccurate and misleading statement. Please see photographic evidence from prior to us even owning the property, that clearly shows there was no shrubbed zone providing natural privacy and safety buffer between the two gardens that deterred convenient access and ready use of the space:



- Please also see the below photographic evidence that was previously supplied, showing this area did hold a patio prior to any works being carried out:



3. In keeping with the natural orientation of adjacent gardens, the original steps and path also swept left and away from the boundary with number 3. The original design was well considered and recognised the need to balance the rights of neighbouring properties. Amenity areas in the original gardens were proportionate in size and sympathetically located.
 4. The sketch drawing of the original garden (see bottom left of document reference 'SD991 01C Original') would be more representative if the area to the right of the steps were illustrated in a similar way as the area to the left – there was a small area of earth immediately behind the retaining wall, and required as part of the retaining structure, that very quickly gave way to planting. Certainly, and contrary to the plans, the area marked 'patio' on the same document was not a patio nor in any sense an amenity area.
- The area to the left-hand side of the steps was patio as evidenced and the area to the right held numerous vegetable patches – both

amenity areas that were frequently used prior to any work carried out.

- In the officer's report for the previous application (24/0810), it was confirmed by the officer "this area appears to have sustained some form of patio adjacent to no.5 as submitted by the application's picture" (point 8.3).

5. We note in addition, that the applicant has ticked 'No' in answer to the question 'Are there any trees or hedges on the site or adjoining the proposed site that would be affected by the development proposal?' They have also ticked 'No' in answer to the question 'Does your proposal involve the loss of any trees or hedgerows?'
6. It would be remiss of us not to properly inform the planning process by confirming that prior to this development, there were in fact two established and mature silver birch trees at the rear of the garden. They were felled and the roots later mechanically excavated in the area where the top tier patio now stands. *REDACTED*
 - In response to points 5 and 6, we contacted NCC on 1 July 2021 to ask if we were allowed to remove these trees and were told there was no TPO and were given permission to remove them (call reference 10429023). The removal of these trees had nothing to do with the works carried out and we requested their removal as due to their height and placement, they caused a reflection in the upstairs left-side bedroom window that resulted in roughly 4-5 birds flying directly into it and either seriously injuring themselves or causing death.
7. *REDACTED* satellite views of the site both before and after the construction of the first tier patio and removal of the trees. It is clear that the patio referred to in document reference 'SD991-01C Original' was only created as a result of this development. Likewise, trees have in fact been removed as part of the works. The development of the second and third tier patios and balustrades was completed after the date of the latest available satellite image. And therefore no satellite image is yet available of the finalised and completed works.
8. The plans do not include any photographs of the development as built, or detailed 3D renders from various different angles which would be required to properly understand the scale and impact of the finished build. However, we trust the council's site visits have allowed them to properly assess the development and take photographs that accurately represent both the extent and impact of the work.
 - Photographic evidence was supplied for the previous application (24/0810) showing the plans submitted did represent the garden prior to works being carried out.

9. The 'Description of Proposed Works' in the application omits any direct reference to the erection of a metal balustrade atop the entire perimeter of the retaining wall at the bottom of the first tier – which returns to and then faces directly along and immediately above the boundary with number 3. This has resulted in the creation of a balcony and a new structure. The consequence of this newly developed patio and balustrade is that a new and additional amenity space has been created.

- To say “this has resulted in the creation of a balcony and new structure” is misleading – as per the Welsh Government Technical Guidance for Permitted development for householders (April 2014) a balcony is considered to comprise of a platform projecting from the exterior of a building. We have simply installed a balustrade for safety reasons on an already existing amenity space, that is not attached to any building.

10. We would respectfully request that this is considered in line with the general planning principals contained within Newport Council's Supplementary Planning Guidance and the Guidance Notes for Raised Amenity Spaces (decks, balconies, patios and roof terraces) in particular points 5.5.1, 5.5.2 and 5.5.3 and the applicant's stated aim of 'obscuring overlooking into adjacent garden'.

- SPG: House Extensions and Domestic Outbuildings serves to provide guidance on exactly that; House Extensions and Domestic Outbuilding, neither of which the work we have carried out falls under. Additionally Part 1 of Schedule 2 to the Town and Country Planning Order 1995 specifies that “For the purposes of Part 1, “raised” in relation to platforms means a platform with a height greater than 30 centimetres” – if no.3 is trying to imply that the patio amenity space on the first tier falls under this SPG, it simply does not meet the definition of “raised” as per Part 1, as its height has not been increased greater than 30 centimetres, as evidenced.

11. The addition of this new amenity space, with attached metal balustrade has created a balcony structure well in excess of 3 metres high, immediately on top of the boundary and facing directly into the immediate rear garden and habitable rooms of number 3. We ask the council to consider this very carefully.

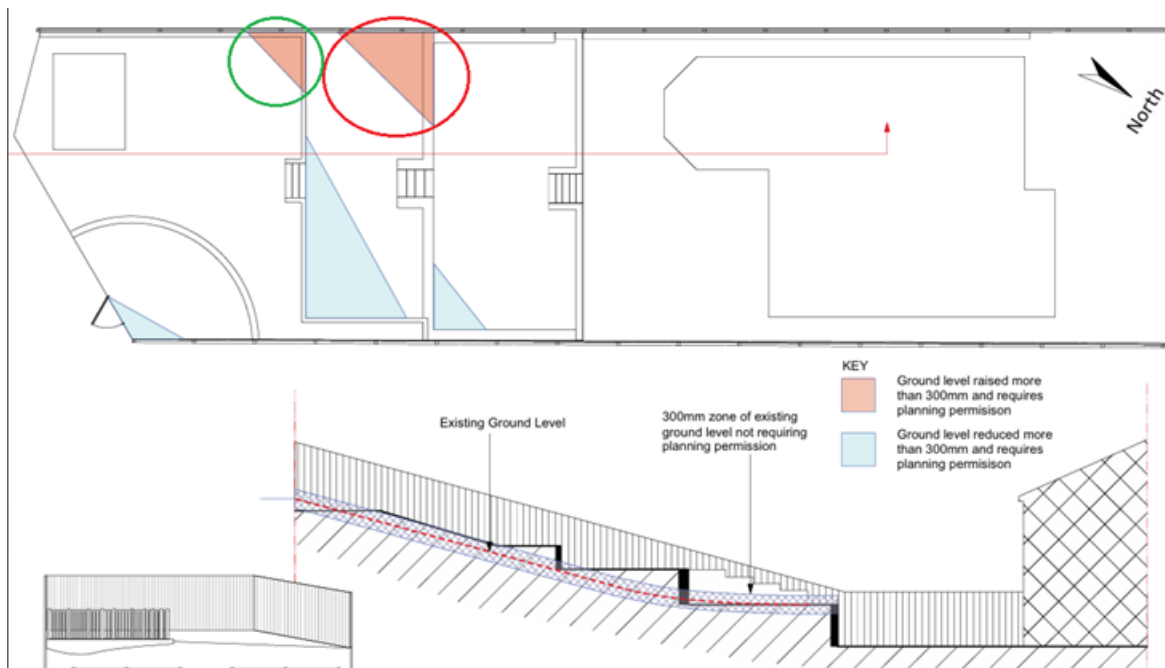
- Again, this is an incorrect and misleading statement. The total height from the ground level to the top of the balustrade measures 2.48 metres – as shown in the photographic evidence below. It is therefore it is totally inaccurate and deceptive to state it “is well in excess of 3 metres high”.



12. We note the 'as built' plans highlight breaches of permitted development rights in 5 separate areas with regards to the 300 mm rule – none of which can be considered de minimis or trivial. Rather, they are significant and serious. And given planning breaches do not arise solely from the raising or lowering of land, the council should also consider the above points in relation to the impact of the newly created first tier patio and balustrade.

- It is worth pointing out that in three of these said areas the space has been decreased by 300mm, which of course results in a decrease in overlooking.
- In the officer's report for the first application (24/0810), it was concluded the top small area that was increased by 300mm (circled green in image below) "is a sloping area that would not enable a formalised space such as that of the second tier [...]. Therefore, this area would be deemed acceptable".
- This leaves 1 area (circled red) which constitutes 13.5% of the second tier that has been raised over 300mm (probably less than 5% of the entire garden), which in our view is de minimis and trivial and could easily be overcome by the mitigations proposed in the

application - the proposals render the whole area within the red triangle as unusable.



13. The developed land has been raised, altered or built upon along the entire length of the boundary with Number 3, including the third tier of the development, diminishing greatly the necessary and important intended benefits of the boundary fence at all points.

- Again, this is a false statement and although nothing can be done due to the timescales involved, we feel it is only fair to mention that the objectors at no.3 carried out their own unauthorised development by creating a platform well above 300mm, that sits along the boundary fence of our property. Our proposal therefore also mitigates any privacy concerns of ours when residents of no.3 use this platform.

14. We would ask the council to consider the overall extent, effect and consequence of the development as a whole, and trust any approved plans will be subject to the same rigour and consideration as would have been the case, had planning permission been sought prior to the development being commenced. We also trust any remedy or conditions imposed will not result in alternative harm.

- As mentioned in the applications supporting information document, such claims of inaccuracy should not be made or reported on, unless there is a clear error, as these are legal documents. We are therefore seeking legal advice into the false, malicious comments made not once, but twice by residents at no.3 Pontymason Close.

We already proved the above statements made were inaccurate when they were posted on the initial application (24/0810). These should not have been allowed to have been posted on our new application, as we have evidence clearly proving they are lies.