

## PETITION IN SUPPORT & MEMBER SUPPORT

COMMITTEE DATE: 19/08/2020

APPLICATION No. **20/00411/DCH** APPLICATION DATE: 19/02/2020

ED: **WHITCHURCH/TONGWYNLAIS**

APP: TYPE: Householder Planning Permission

APPLICANT: Mr Kaid Mohamed

LOCATION: 23 HEOL PANT-Y-RHYN, WHITCHURCH, CARDIFF, CF14  
7BZ

PROPOSAL: AMENDMENTS TO SCREENING ON LEFT AND RIGHT  
HAND SIDES OF BALCONY

---

**RECOMMENDATION** : That planning permission be **REFUSED** for the following reasons:

1. The first floor rear balcony/roof terrace by reason of its scale and siting within close proximity to neighbouring properties unacceptably harms the privacy and amenity of the neighbouring residents contrary to Policy KP5 of the Cardiff Local Development Plan and the advice contained within Supplementary Planning Guidance: Residential Extensions and Alterations.
2. The first floor rear balcony/roof terrace by reason of its scale, siting and design, represents an overdevelopment of the site and does not have proper regard to the character and context of the local area contrary to Policy KP5 of the Cardiff Local Development Plan and the advice contained within Supplementary Planning Guidance: Residential Extensions and Alterations.

### 1. **DESCRIPTION OF PROPOSED DEVELOPMENT**

- 1.1 This application seeks planning permission to retain an existing balcony/roof terrace with additional amendments to its screening which is located along the perimeter of the balcony/roof terrace. The application follows on from a previous planning application to retain the unauthorised balcony/roof terrace 'as built', which was refused planning permission (Ref: 19/02447/DCH). A Planning Enforcement Notice has been served with respect to the existing unauthorised development.

- 1.2 The principal difference between the current proposal and the proposal refused planning permission is that the obscurely glazed screens on the side elevations of the balcony/roof terrace would be replaced so that they were a height of 1.77 metres for the entirety of the side edges of the balcony/roof terrace (and not chamfered at the corner point as existing). Additionally, the screening panel would be continued along the front edge of the balcony/roof terrace at a height of 1.77 metres at the corner points for a distance of approximately 60cm from the side edges of the terrace before chamfering down to a height of approximately 1.1 metres approximately 1 metre from the side edges of the balcony/roof terrace.

## 2. **SITE DESCRIPTION**

- 2.1 The property is semi-detached extended dormer bungalow located in the Whitchurch area of Cardiff. The property is attached to No. 21 Heol Pant Y Rhyn located to its north west and is bounded by No. 25 Heol Pant Y Rhyn located to its south west. The application site backs on to the properties located in Heol Pentywn adjacent to Northern Avenue.

## 3. **RELEVANT SITE HISTORY**

- 06/00221/W : CREATION OF DORMER BUNGALOW WITH DORMERS TO FRONT AND REAR AND REPLACEMENT GARAGE : 12/04/2006 : PERMISSION GRANTED
- 16/02587/DCH : PROPOSED LOFT CONVERSION WITH DORMERS INCLUDING REAR (SCREENED) BALCONY : 23/02/2017 : PERMISSION GRANTED
- 17/01230/DCH : VARIATION OF CONDITION 2 OF 16/02587/DCH TO INCLUDE AMENDED DRAWINGS FOR THE EXTENDED ROOF OVERHANG OVER THE APPROVED TERRACE TO THE FIRST FLOOR TO PROVIDE SHELTER FOR THE USER : 21/07/2017 : PERMISSION GRANTED
- 17/02948/DCH : VARIATION OF CONDITION 2 OF 16/02587/DCH TO INCLUDE AMENDED DRAWINGS TO RAISE THE DORMER EAVES IN ORDER TO ALLOW A LIFT TO BE INSTALLED AND SIDE DORMER INCREASED IN LENGTH TO ALLOW FOR FULL ACCESS AROUND REAR BEDROOM : 19/02/2018 : PERMISSION GRANTED
- 18/01522/DCH : RETENTION OF FRONT AND SIDE DORMERS AND REAR FIRST FLOOR TERRACE AND GLAZED BALLUSTRADES : 28/09/2018 : PERMISSION REFUSED

- 19/02447/DCH : RETENTION OF LEFT HAND SIDE OF CONSTRUCTED BALCONY. THE LOFT CONVERSION AND MAIN REAR BALCONY HAD BEEN PREVIOUSLY GRANTED : 20/1/2020 : PERMISISON REFUSED
- PLANNING ENFORCEMENT NOTICE SERVED : Dated 5<sup>th</sup> February 2020

3.1 Planning permission was originally granted for a balcony/roof terrace by virtue of planning application code reference 16/02587/DCH, as part of a proposal that included roof extensions to the property. The balcony/roof terrace was proposed to have been formed above a small section of the roof of an existing single storey rear extension (accessed from the approved rear dormer) with restricted access to the remainder of the flat roof area with the presence of a proposed balustrade. A condition required the erection and maintenance of privacy screening along the North West and part of the North East sides of the roof of the single storey rear extension to safeguard the privacy of neighbouring residents. This scheme was subsequently amended (granted by planning permission code reference 17/01230/DCH) to include a roof overhang which would provide shelter to the balcony/roof terrace.

3.2 When development works were undertaken at the property, a much larger roof terrace, than that which was permitted was formed, which involved use of the area above the entire flat roof of the single storey extension. A further application (18/01522/DCH) was submitted in an attempt to retain the development that had been constructed. This application considered the use of high glazed screening on the northwest and southeast sides and a lower glazed balustrade enclosure on the northeast side with high fixed potted plants on the inner sides to provide privacy screening. This application was refused due its harm caused to the amenity of neighbouring occupiers and the impact on the character and context of the area. A further planning application was submitted (19/02447/DCH), which differed slightly in that additional screening would be provided to the South East side by means of a 1.77m high obscure glazed screen. This planning application was refused for reasons relating to privacy and poor design.

#### 4. **POLICY FRAMEWORK**

4.1 The site lies within a residential area as defined by the proposals map of the Cardiff Local Development Plan 2016.

4.2 Relevant National Planning Guidance:

Planning Policy Wales: Edition 10 (2018)  
 Planning Policy Wales TAN 12: Design  
 Development Management Manual

4.3 Relevant Cardiff Local Development Plan Policies:

Policy KP5: Good Quality and Sustainable Design

4.4 Relevant Supplementary Planning Guidance:

Residential Extensions & Alterations (2017)

5. **INTERNAL CONSULTEE RESPONSES**

5.1 None

6. **EXTERNAL CONSULTEE RESPONSES**

6.1 None

7. **REPRESENTATIONS**

7.1 Correspondence has been received from the City and County Councillor for Caerau Peter Bradbury supporting the applicant and their proposal. The full correspondence of support is available to view on the planning file, however, the correspondence can be summarised as follows:

- The applicant received a Disabled Facilities Grant to adapt his home with a balcony and has support from his Occupational Therapist and can provide medical evidence as to why this work was needed to be carried out
- The applicant is vulnerable, has had their home broken in to and to alter the work would be a huge upheaval
- The applicant has the support of the neighbours including a petition of over 50 signatories

The supporting comments of the Councillor are noted, however, the merits of the development are considered and are detailed within the analysis section of the report (paragraphs 8.1 - 8.6)

7.1 Neighbours have been notified of the planning application and objections received from the adjoining occupier at No. 21 Heol Pant Y Rhyn. The full objection is available to view on the planning file, however, the objection can be summarised as follows:

- The terrace overlooks their garden causing a loss of privacy
- The visual impact of the terrace is unsightly and overbearing
- The design of the balcony is out of scale and not in keeping with the character of the area
- Concerns if the owner were to sell the property and its future use

- Increasing the size of the panels makes the structure more imposing without alleviating privacy concerns.

The letter of objection has been noted.

7.2 A petition of more than 50 signatories has also been received supporting the proposal.

7.3 A letter of support has been received from the neighbouring occupier at No. 25 Heol Pant Y Rhyn. The full letter of support is available on the planning file, however, the letter can be summarised as follows:

- They have no objection to the size and features of the balcony.
- They believe that they and the applicant have adequate privacy and the development is aesthetically pleasing
- The applicant is a quiet, courteous neighbour

7.4 A letter has been received from Spinal Physical Therapist Dave Smith supporting the applicant and their proposal. The full letter of support is available to view on the planning file, however, the letter can be summarised as follows:

- The planning matters have put a great deal of stress on the applicant
- The applicant had been a ventilated patient with a tracking ostomy and has difficulty breathing, and the use of the balcony has resulted in his breathing improving
- Improved breathing has resulted in lower anxiety levels for the applicant
- The balcony space and soft flooring allows the applicant to undertake standing exercise in a safer environment than elsewhere in the property where there are harder surfaces
- The applicant has a two handed lift out of his chair. If the balcony were smaller there would not be enough room to lift him in and out of the chair there.
- The applicant frequently suffers pain and pressure sores and is prone to catching illnesses. The applicant has spent long periods not being able to come downstairs and without the balcony they would not have been able to have access to natural light and fresh air.

7.5 A letter has been received from Senior Community Occupational Therapist Cheryl Hill supporting the applicant and their proposal. The full letter of support is available to view on the planning file, however, the letter can be summarised as follows

- The adaptations to the property were recommended for a Disabled Facilities Grant as the applicant had suffered a serious life changing injury to their spine severely affecting their mobility.

- The balcony is a therapeutic space for physiotherapy and yoga as well as a space to relax and get fresh air
- To assist the applicant's safe movement and handling sufficient space is required to accommodate the correct equipment. Any significant reduction to the existing dimensions will prohibit the safe moving and handling protocols in conflict with the Manual Handling Regulations 1992: HSE Guidance on the Regulations. If the balcony was reduced in size then it would not be possible to achieve a safe working environment to enable the applicant to access it safely and it would effectively become a redundant space.
- Increasing the privacy screening would be a pragmatic and unobtrusive solution that would enable the applicant to maintain the requirements for the space
- The applicant is not in a financial position to undertake major adaptation works and would not qualify for grant aid in this instance
- The applicant's disability has been very challenging and that establishing a home which meets their full needs has been of huge value and helped them maintain their independence and avoid the prospect of entering expensive residential care.

7.7 The petition and representations received from the neighbouring residents are noted. Whilst the substance of local views must be considered, the duty is to decide each case on its planning merits. As a general principle, local opposition or support for a proposal is not, on its own, a reasonable ground for refusing or granting planning permission; objections, or support, must be based on valid planning considerations.

7.8 **Neighbour Representations and Petition in Support** – The letters and petition of support are noted, however, the merits of the development are considered on balance and is detailed within the analysis section of the report (paragraphs 8.1 - 8.6). The contents of the letters from the Health Professionals supporting the applicant and the proposal have been considered along with the other material considerations as part of the planning process.

## 8. **ANALYSIS**

8.1 The key issues for consideration are the effect of the balcony/roof terrace on the amenity of neighbouring residents and its impact upon the character of the area.

8.2 The analysis will consider whether the proposed amendments to the design of balcony/roof terrace are sufficient to overcome the unacceptable impacts of the proposed development which resulted in the refusal of the previous planning application code reference 19/02447/DCH, which were as follows:

- 1) *The first floor rear roof terrace by reason of its scale and siting within close proximity to neighbouring properties unacceptably harms the privacy and amenity of the neighbouring residents contrary to Policy KP5 of the Cardiff Local Development Plan and the advice contained within Supplementary Planning Guidance: Residential Extensions and Alterations.*
- 2) *The first floor rear roof terrace by reason of its scale, siting and design, represents an overdevelopment of the site and does not have proper regard to the character and context of the local area contrary to Policy KP5 of the Cardiff Local Development Plan and the advice contained within Supplementary Planning Guidance: Residential Extensions and Alterations.*

8.3 **Policy Considerations** - Policy KP5 (*Good Quality and Sustainable Design*) of the Local Development Plan (2016) and the Residential Extensions and Alterations Supplementary Guidance (2017) are relevant to the consideration of the proposal.

Policy KP5 of the Cardiff Local Development Plan includes the following:

*All new development will be required to be of a high quality, sustainable design and make a positive contribution to the creation of distinctive communities, places and spaces by:*

- i. *Responding to the local character and context of the built and landscape setting so that layout, scale, form, massing, height, density, colour, materials, detailing and impact on the built and natural heritage are all addressed within development proposals;*
- x. *Ensuring no undue effect on the amenity of neighbouring occupiers and connecting positively to surrounding communities;*

The Residential Extensions and Alterations Supplementary Guidance (2017) includes the following relevant paragraphs:

*8.27 When considering a balcony or roof terrace you should take into account the impact on neighbours.*

*8.28 Potential problems include overlooking and privacy, structural stability, daylight, noise, light spillage and security. Consideration should therefore be given to the following:*

- *Use of setbacks to minimise overlooking (a balcony need not necessarily cover the entire available wall space)*

- *Use of screens or planting to prevent overlooking of habitable rooms or gardens, without reducing daylight and sunlight or outlook*

*8.29 A roof terrace should be set back behind the slope of a pitched roof or a parapet. The dimensions of the roof should be sufficient to accommodate a terrace without adversely affecting the appearance of the roof or the elevation of the property.*

- 8.4 The additional height of the screening to the sides and at the corners of the front edge of the balcony/roof terrace will assist in preventing views to the side towards the neighbouring properties (Nos 21 & 25 Heol Pant Y Rhyn) when compared with the previous proposal, however, the usable floor area of the roof terrace remains as constructed. The floor area associated with the structure has not been altered to assist in seeking to reduce harm to the amenity of nearby neighbouring residents who live within close proximity to the roof terrace, contrary to the policy and guidance stated above.
- 8.5 While the introduction of the amended screening is noted, the increase in height and length of the screening will add to the scale of the development. The screening has not been set back from the edge of the roof and its resulting scale and prominence would represent an incongruous form of development harmful to the character of the area and neighbouring amenity, contrary to policy and guidance stated above.
- 8.6 The personal circumstances of the applicant and their needs as a disabled person are recognised. The potential benefits of the development to the applicant's health and wellbeing are also recognised. 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. The Council's duty under the above Act has been given due consideration in the determination of this application. It should be noted that the Local Planning Authority has permitted significant alterations to the property and approved amended schemes through the process to allow for the adaption of the property to suit the applicant's needs. However, the planning system must also consider the wider public interest. Section 9.1.2 of the Development Management Manual states, "*Applications for planning permission must be determined in accordance with the approved or adopted development plan for the area, unless material considerations indicate otherwise. Material considerations could include current circumstances, policies in an emerging development plan, and planning policies of the Welsh Government. Chapter 3 of Planning Policy Wales sets out policies on taking planning decisions including that all applications should be considered in relation to up to date policies.*" In this instance, it is considered that the negative impacts of the proposed development in planning terms outweigh these personal needs as far as they extend to the provision of a balcony/roof terrace of the design under



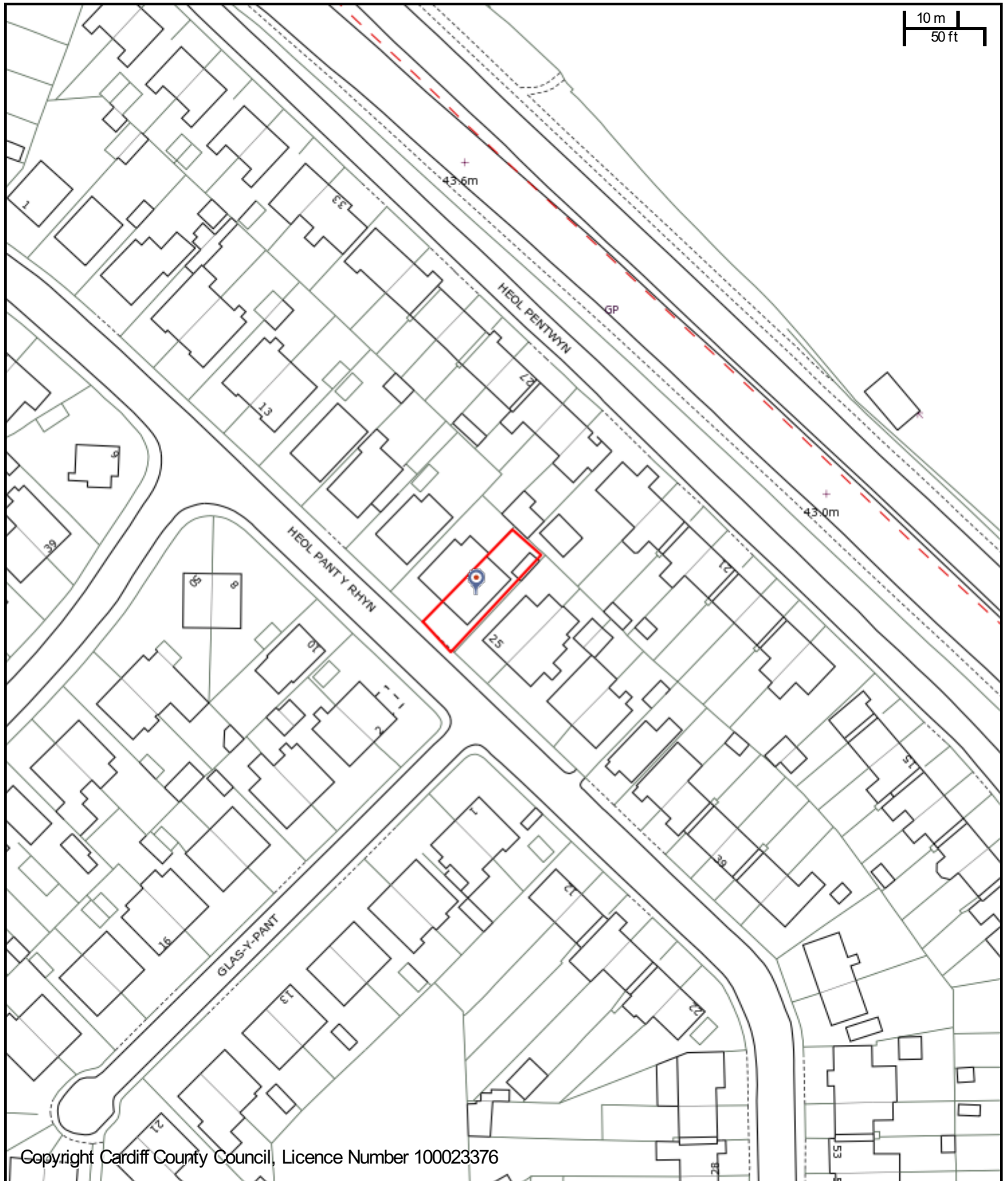
consideration, and that the development should be refused in order protect the amenity of the existing and future occupiers of the neighbouring properties and to uphold planning policy in the wider public interest.

9. **RECOMMENDATION**

- 9.1 Having taken all of the relevant factors into consideration it is concluded that the development is unacceptable in planning terms and it is therefore recommended that planning permission be refused.

10. **OTHER CONSIDERATIONS**

- 10.1 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.
- 10.2 Well-Being of Future Generations Act 2016 – Section 3 of this Act 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 (Section 5). This duty has 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 recommended decision.



Copyright Cardiff County Council, Licence Number 100023376

CHIEF EXECUTIVE

Neuadd y Sir, Glanfa'r Iwerydd  
CAERDYDD CF10 4UW  
Tel: 029 20872088

County Hall, Atlantic Wharf  
CARDIFF CF10 4UW  
Tel: 029 20872087

**Cyngor Caerdydd**

**Cardiff Council**



**Title**

Scale: 1:1000

Date: 10/8/2020 at 13:03 PM

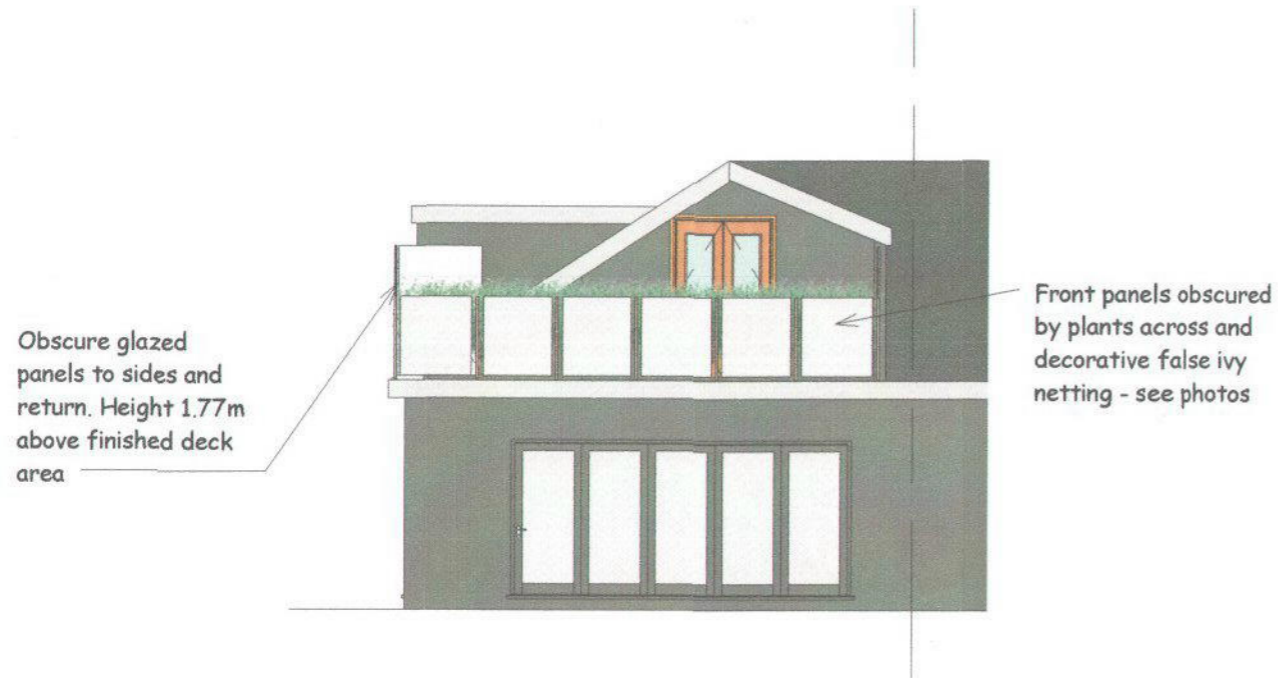
Coordinates:

© Crown copyright and database rights (2014).

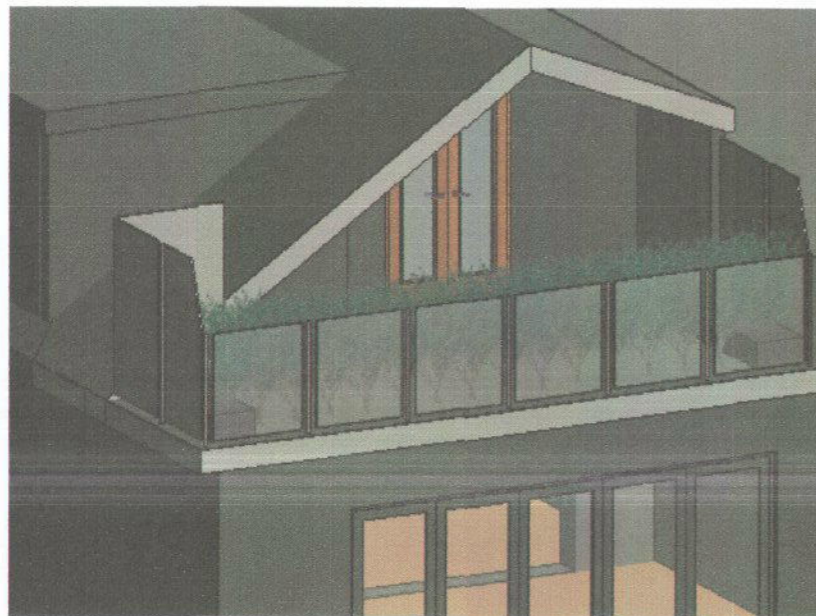
This copy is produced specifically to supply County Council information NO further copies may be made.

**Ordnance Survey 100023376 (2014).**

# EXISTING BALCONY ARRANGEMENTS



1 Rear Elevation  
1 : 100



4 Isometric View  
1 : 1

# Revised Glass Balcony @ 23 Heol Pant Y Rhy, Whitchurch, Cardiff

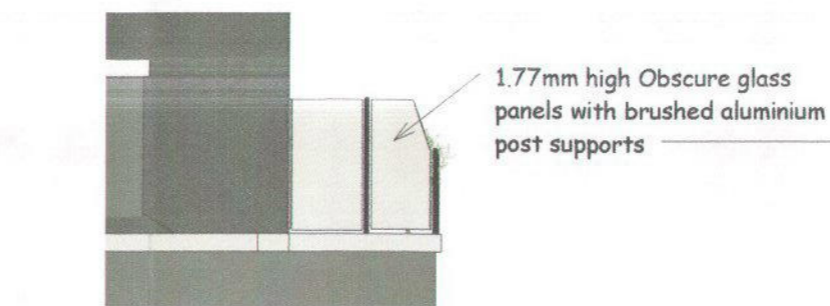
Scale: Not To Scale

Drwaing No: PLO1

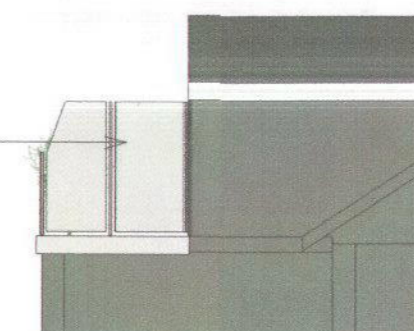
Date: 02/09/2019



3 4. First Floor - Balcony Area  
1 : 100



2 Side Elevation  
1 : 100



5 Side Elevation 2  
1 : 100

20/00411

# PROPOSED BALCONY ARRANGEMENTS

## Revised Glass Balcony @ 23 Heol Pant Y Rhyn, Whitchurch, Cardiff

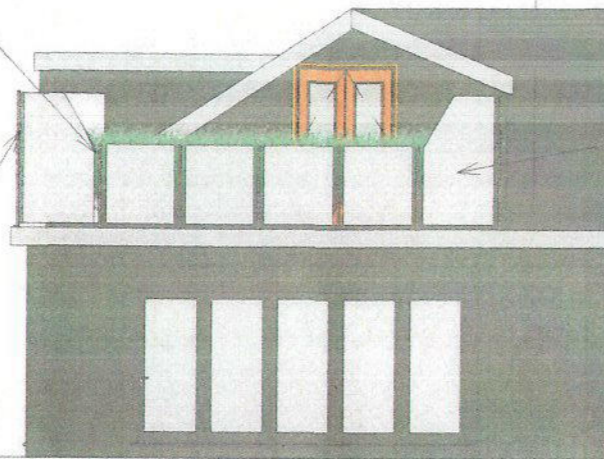
Scale: Not To Scale

Drwaing No: PL02

Date: 10/02/2020

Revised details of extended balcony to create refuge area

Obscure glazed panels to sides and return. Height 1.77m above finished deck area and panels and front returns altered

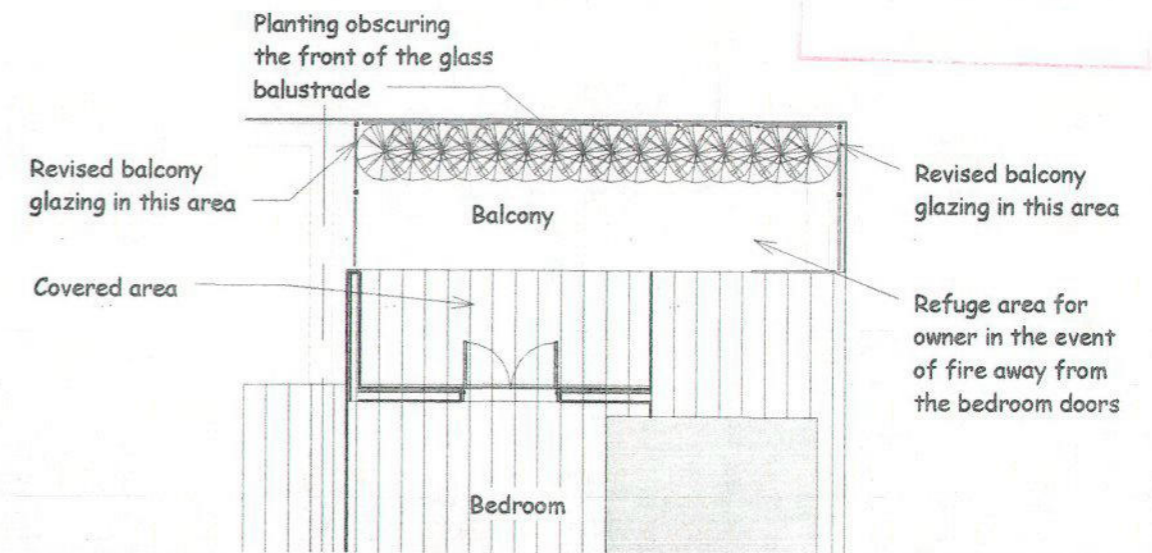


Front panels obscured by plants across and decorative false ivy netting - see photos

1 Rear Elevation  
1 : 100

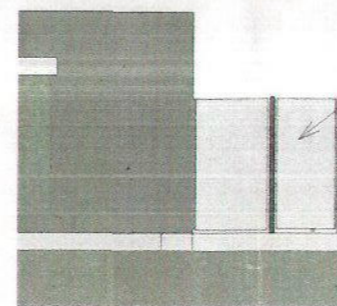


4 Isometric View  
1 : 1



3 4. First Floor - Balcony Area  
1 : 100

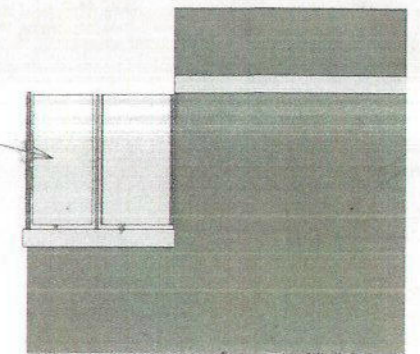
20/00411



1.77m high Obscure glass panels with brushed aluminium post supports

2 Side Elevation  
1 : 100

1.77m high Obscure glass panels with brushed aluminium post supports



5 Side Elevation 2  
1 : 100