

Delegated Decision Report

Application No:	25/0440	Statutory Period Expires:	7th October 2025
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Site:	2 Tyn-Y-Brwyn Farm Cardiff Road Newport NP10 8UD		
Proposal:	LAWFUL DEVELOPMENT CERTIFICATE FOR A PROPOSED ANNEXE		
Applicant:	J Davies		
Type:	Lawful Development Proposed	Ward:	Tredegar Park And Marshfield
Decision:	REFUSED		

1. BACKGROUND

1.1 None.

2. SITE LOCATION AND CONTEXT

2.1 The application site is located outside of the defined settlement boundaries, therefore, for the purposes of planning is located within the Countryside, within a Special landscape Area, green wedge, a mineral safeguarding area, and within close proximity to the Gwent Levels SSSI. The site is serviced by an access track from the A48, and the host dwelling appears to be an old farm house, which has now been divided into two separate dwellings. There are a number of barn conversions within close proximity. The host site holds a mix of residential and agricultural land and is surrounded by an open landscape.

3. DESCRIPTION OF DEVELOPMENT

3.1 This application seeks a lawful development certificate for the siting of an annex at 2 Tyn-Y- Brwyn Farm. The submission seeks permission for a pre-used, twin-unit transportable lodge to house the applicants' elderly parents, who require 24-hour care due to age-related health issues and mobility needs, to the East of 2 Tyn-y-Brwyn Farm. The unit contains a large lounge, a dining area, and kitchenette. It also has 2no. bathrooms, 2no. bedrooms. It has been stated that meals will be prepared in the main dwellinghouse.

Proposed units size:

Depth: 6.1m

Width: 12.2m

Height: 4m

4. RELEVANT SITE HISTORY

App Number	Proposal	Decision	Decision Date
09/0395	AGRICULTURAL DETERMINATION FOR THE CREATION OF NEW FIELD ACCESS	AR	12/05/2009
06/1690	INSTALLATION OF A SINGLE WIND TURBINE	GC	19/04/2007
03/0066	CERTIFICATE OF LAWFULNESS FOR EXISTING USE OF PROPERTY AS TWO SELF-CONTAINED DWELLINGS	I	21/03/2003

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.

5.3 Town and Country Planning Act 1990: Section 192

6. CONSULTATION RESPONSES

6.1 None.

7. PUBLIC REPRESENTATIONS

None.

7.1 Some neighbouring properties commented on the scheme and have been stated below (please note full comments can be found online):

- Increased traffic movements due to a new dwelling, and subsequent maintenance costs
- Not made aware of the application
- The land owned is a mix of residential and agricultural
- the 'no caravan' rule, neighbours made applicant aware of this condition of planning for stables at our property, when he complained to Newport council on behalf of the Tyn y Brwyn residents, about a caravan sited on agricultural land nearby.
- Caravan was visible from the Castleton Circular public footpath, within the countryside and golf course
- Materials not sympathetic to the countryside
- Concerns over use as Air bnb
- Precedent for the area
- The proposed land edged in red is not permitted for development as it has always been Agricultural Land and would require a change of use. Alos noted it has been used as agricultural land- 1998 been used for siting bee hives
- Will create a negative impact on the SSRI
- Contrary to NLDP policies.

- Environmental impact

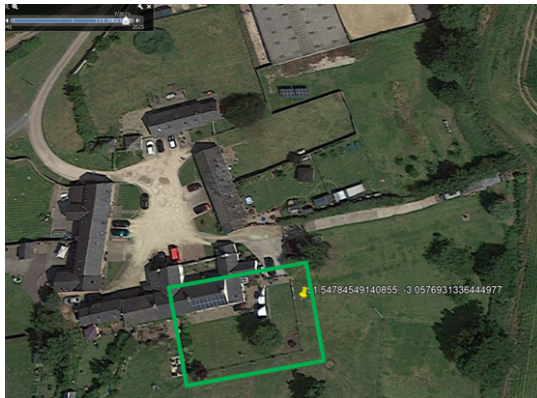
8. ASSESSMENT

- 8.1 This application seeks a Certificate of Lawful Development for a new temporary mobile lodge to form an annex at 2 Tyn-Y-Brwyn Farm.
- 8.2 The single storey mobile home would have a depth of 6.1m, a width of 12.2m and a height of 4m with a pitched roof. It is stated that the unit would provide accommodation for close relatives of the occupier of the main dwelling who require assistance with care. The supporting statement suggests the unit would be a twin-unit transportable lodge. All food and meals will be prepared in the main house. The lodge's kitchenette is intended only for light use (e.g., hot drinks, basic reheating), not for full cooking. This ensures the lodge is not self-contained and is functionally dependent on the main residence—reinforcing its role as an annex and not a standalone dwelling.
- 8.3 When assessing the scheme, there are two main factors to be assessed in determining if planning permission is required for the siting of a mobile home; is the mobile home operational development and whether it would amount to a material change of use.
- 8.4 The applicant alleges that the unit in question would fall under the definition of a caravan in the *Caravan Sites and Control of Development Act 1960* and the *Caravan Sites Act 1968* as amended. The Caravan Sites Act states that mobile homes should be of no more than 20 metres in length, 6.8 metres in width and have an overall height of the living accommodation (measured internally) from floor to ceiling of 3.05 metres. The dimensions provided within the application are external measurements, and therefore, it cannot be confirmed if the internal height is within the parameters above. The unit will come in two parts, and will be constructed as one unit. It is mentioned the unit would be 'liftable' in the supporting document, and the applicant has suggested it will be, however, no evidence has been provided to demonstrate the number of parts or of the mobility of the unit once assembled or that it would be capable of being moved from the site when assembled. In the absence of this information, the Council is unable to accept that the unit would constitute a caravan.
- 8.5 On this point, appeal ref: APP/K2230/X/19/3222526 is of relevance. It is a recent decision that relates to the refusal of Gravesham Borough Council to grant a certificate of lawful use or development for the siting of a caravan to be used incidental to a dwelling. As stated by the Inspector, in an application for an LDC, the onus is on the applicant to provide all the relevant information and evidence to support his case. The burden of proof lies with the appellant. On the matter of mobility, the Inspector noted that the appellant stated that the two halves could be easily transported from the site when required. However, the Inspector stated that the test requires that the caravan should be physically capable of being moved from the site when assembled. Moreover, no detailed evidence was provided to support the appellant's assertion that structure would be physically capable of being moved from the site when assembled. The Inspector concluded that it is not clear that the structure would be able to physically withstand being loaded onto a trailer or being towed and therefore failed the mobility test in s13 (1) (b) to the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968 as amended. Similarly, in this

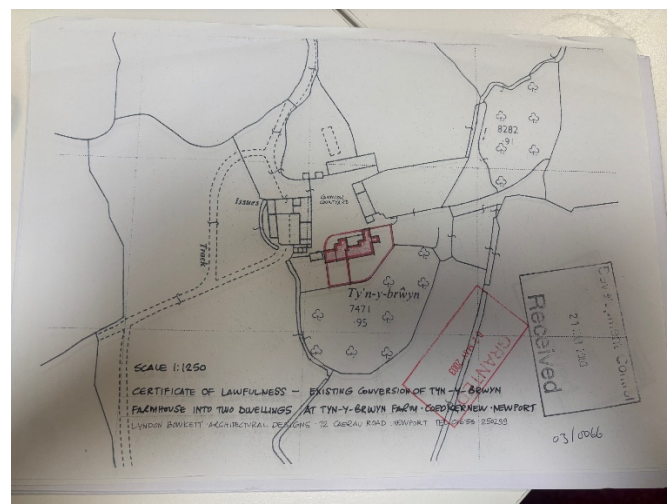
instance no information has been provided to demonstrate that the structure would be capable of being moved from the site when assembled and this test is failed.

- 8.6 Notwithstanding the above, the Council must consider the degree of permanence of the structure and physical attachment. In doing so factors such as whether it has wheels, how it is secured, whether it has plumbing and other services is of relevance. In this instance, information has not been provided on a base for the unit and no details are given as to whether it would stand under its own weight or would be attached. It will be connected to existing utilities and not separately metered. In terms of electricity, the lodge would be fed from the main house, which benefits from solar energy. All installations would be compliant to BS7671 17th Edition standards and be installed by a suitably competent contractor. The water to the Lodge would be spurred off of an existing outdoor garden hose supply, located adjacent to the Greenhouse. Gas supply to the lodge annex will be provided by either Gas Bottles or a Refillable Gas Tank. All Gas works to be installed by a CORGI Registered contractor. All wastewater (grey & brown) shall be collected in a standalone cesspit located under the lodge annex structure which shall be regularly emptied by an approved waste disposal contractor. It is considered that the lodge may not be easily moved, and no information has been provided to the contrary. The applicant states that the mobile home would be used for temporary accommodation for family members, though the frequency of use is not estimated, and it will not be used as a separate planning unit and will have no independent address or occupancy. However, insufficient details have been provided on the moveability and attachment, and the applicant has not discharged this burden of proof.
- 8.7 If the evidence was sufficient to enable the Council to conclude that the caravan was moveable, then there would be no operational development involved in the siting which would require planning permission in that regard. It is not possible to say the siting is lawful without examining the use. There would potentially be a material change of use of the land upon which the caravan was sited (creation of a new planning unit) if the use were not incidental to the enjoyment of the main dwelling (such incidental use not being development under s55(2)(d) of the 1990 Act). Therefore, the use must be regarded as part of the consideration of lawfulness.
- 8.8 Firstly, it is noted that applicant has provided information on the residential curtilage of the property. The site in which the mobile home is proposed to be sited is on land in which the applicant states is lawful residential curtilage, and states that the land has been used continuously as residential garden land since at least 2013. The nature of the land should be assessed to understand if the annex would be sited on residential curtilage, and would therefore, be ancillary.
- 8.9 The applicant has provided images to support that the land has been used as residential curtilage. Images to show that the piece of land has been maintained, mowed, and fencing put in place to show the demarcation from agricultural land which can be seen in the image below. The applicant suggests that the fencing marked A to B below demarcates residential curtilage from agricultural land. A photo from 2017 has also been provided showing the use of the piece of land for residential use with people sitting around on camping chairs to the North of this fencing. From mapping services, from at least 2015, it

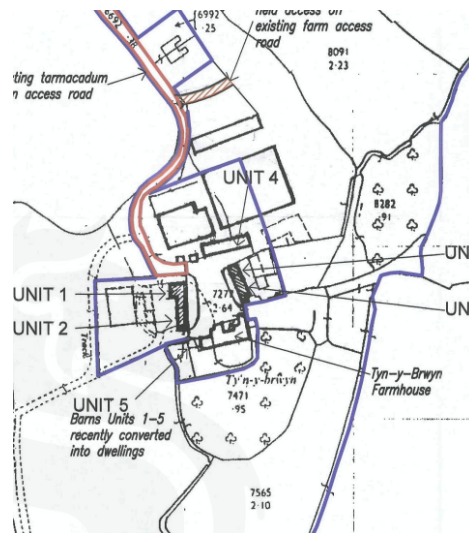
shows there is a smaller fenced area directly adjacent to the main dwelling as shown in the green box below. From the information above, it is understood that whilst the land could have been mowed within the A to B area, this does not define the use of the land between residential land and agricultural land, as agricultural land can also be maintained. Moreover, there is a shed and greenhouse on the piece of land in contention, however, again, this can also be associated with agricultural use. The photo provided from 2017 shows a single snapshot on a single day, with temporary camping chairs used, and this would not ascertain a more permanent, continuous use given the information provided. Furthermore, more recently on a site visit, the fencing on the site which can be seen from the mapping images below have been removed, and therefore, this no longer shows a continuous use.



- 8.10 In terms of planning history, it is believed the original farm house was divided into two in the 1980's and therefore, there is limited planning history obtainable to understand the curtilage sub division, however, on subsequent applications around the site it is observed that, for example, under 03/0066, for the *CERTIFICATE OF LAWFULNESS FOR EXISTING USE OF PROPERTY AS TWO SELF-CONTAINED DWELLINGS* at Tyn-Y-Brwyn that the residential curtilage has been defined as below, and this does not incorporate the piece of land the mobile home is proposed to be sited on.



09/0395, for a new field access, the site location plan demarcates land ownership, and the blue line suggests the residential curtilage is within the smaller fenced area directly joined to the main dwellinghouse.



- 8.11 Overall, it is considered there is not enough evidence submitted to support that the piece of land to the North of fence marked A to B is residential curtilage and has been used that way for over 10 years in a continuous period. It is acknowledged that the LPA have not been asked to determine the lawfulness of this land as residential, however on the basis of the information provided this assertion made as part of this application cannot be relied upon and therefore is not accepted by the LPA.
- 8.12 Furthermore, when assessing the ancillary nature of the unit, Appeal case APP/T0355/W/19/3229741 relating to a site within the Royal Borough of Windsor is of relevance in examining whether or not accommodation would be ancillary. The appeal relates to the refusal of planning permission rather than an LDC but nonetheless is applicable. The Inspector considered that scale, use and whether it can reasonably be described as required for incidental or ancillary purposes in connection with the farmhouse (in that instance) is of most relevance. In that instance, the Inspector noted that the cabin was substantial in its scale and that it was occupied by family members of the occupants of the main dwelling. He noted that the occupants of the cabin were free to wander between the cabin and the house and that it shared the same access as the house. However, he also noted that whilst the occupants could wander between the cabin and the house, many individuals are able to walk to neighbouring properties which are in similar or closer proximity and which are neither within the same ownership nor otherwise functionally connected. Turning to the access arrangements which are of a similar nature to the application site, whilst the Farmhouse and cabin share the same access, it is not uncommon for accesses from rural lanes to serve multiple properties and he concluded that factor is not determinative. The Inspector considered that the cabin could readily be occupied by individuals not within the appellant's extended family given the absence of a clear spatial or functional linkage with the house and the cabin cannot therefore reasonably be said to be required for a purpose incidental or ancillary to the enjoyment of the dwelling house, however, it is considered the applicant has suggested there is a link

given all meals will be prepared in the main dwelling house and the kitchenette is primarily for limited use.

- 8.13 Whilst the mobile home could be occupied as independent accommodation as it includes a kitchen and bathroom, Uttlesford District Council v Secretary of State for the Environment and White [1992] found that even though a garage conversion could be capable of independent occupation the actual use of the unit shall determine whether a change of use shall have occurred. Each case must be looked at on its facts. As noted, the mobile home unit has a large lounge, a dining area, and a kitchen. It has 2no. bathrooms, 2no. bedrooms. It has all the facilities that would be needed for independent living and there would be no need to visit the main house for any of its facilities, though the applicant has stated that this is the intention. It is larger than a normal static caravan and could be used for permanent accommodation on sites. Notwithstanding this, in consideration of the application sufficient weight must be attributed to the applicant's intentions for the unit and not only how it *could* be occupied. In view of the fact that this is an LDC for a proposed development, then any use other than the use described in the application would be unlawful and could be enforced against by the LPA. Therefore, there is not sufficient evidence to demonstrate that the siting of the unit on the land is within residential curtilage, and therefore, requires planning permission.

8.14 *Other factors*

It is considered neighbouring properties commented on the application and raised concerns as to why they were not consulted. Due to the nature of the application, the proposal is considered on whether the scheme is lawful, and not on the merits of the application that would be considered under a planning application. Therefore, in this case, the neighbouring comments are noted but would not be considered in this application.

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 On the basis that there is insufficient evidence to show that the proposed unit is a caravan, or to satisfy the tests of whether it is a building or not, and on the basis that the land in which the unit is proposed is not within the residential curtilage of the property, and therefore, not ancillary. Therefore, the scheme would require planning permission when assessed against section 55 of the Town and Country Planning Act 1990.

7.2 Therefore, the certificate is refused.

11. DECISION

REFUSED

01 The proposed unit is not lawful in accordance with Section 55 the Town and Country Planning Act 1995 (as amended), the Town and Country Planning (General Permitted Development) Order 1995 (as amended) and the Caravan Sites Act 1968 (Amendment) (Wales) Order 2007 and planning permission is required.

NOTE TO APPLICANT

01 This decision relates to plan Nos: 25.0440 Annex With Annotated Dims 1of1; 25.0440 Annex With Annotated Dims 2of2; Proposed Floor Plans; Proposed Elevations; Site Location Plan; Proposed Block Plan; Proposed Location For Granny Annex; Granny Annex - Side Elevation.; Existing Domestic Buildings More Than 10 Years

Old.; Curtilage and Sub Divisions; Historical Images Showing Land Use 1; Historical Images Showing Land Use 2; Historical Images Showing Land Use 3.; Granny Annex (Lodge) Example Style.; Planning Statement.; Granny Annex - Front Elevation; Covering Letter

02 The development plan for Newport is the Newport Local Development Plan 2011 – 2026 (Adopted January 2015).

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.