

Delegated Decision Report

Application No:	26/0705	Statutory Period Expires:	5th November 2026
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Site:	21 Hampshire Avenue Newport NP19 4QA		
Proposal:	LAWFUL DEVELOPMENT CERTIFICATE (PROPOSED) FOR A SINGLE STOREY GRANNY ANNEX TO THE REAR OF THE EXISTING GARAGE		
Applicant:	J Hunt		
Type:	Lawful Development Proposed	Ward:	Liswerry
Decision:	REFUSED		

1. BACKGROUND

1.1 None.

2. SITE LOCATION AND CONTEXT

2.1 This application relates to 21 Hampshire Avenue, which is a detached single storey bungalow located in the Liswerry ward. The property is finished in white render with a brown concrete tile roof. A detached garage is located to the south east of the existing dwelling adjacent to the boundary with the neighbouring property. The wider site context is predominantly residential with an area of open space and the Southern Distributor Road located approximately 60m to the south and Liswerry Primary School approximately 330m to the north.

3. DESCRIPTION OF DEVELOPMENT

3.1 This application seeks to confirm, via a lawful development certificate that the erection of an outbuilding in the rear garden to be used as a granny annexe would be permitted development and therefore not require planning permission.

4. RELEVANT SITE HISTORY

None.

5. PLANNING POLICY

5.1 N/A.

6. CONSULTATION RESPONSES

6.1 None.

7. PUBLIC REPRESENTATIONS

7.1 None.

8. ASSESSMENT

8.1 The proposed annexe would be sited in the rear garden which appears to be level and would measure a maximum height of 2.5m within 2m of a shared boundary, length of 10m and width of 4m. It would contain a lounge, kitchen, living area, shower room and bedroom. The agent has advised that the annexe is for the applicant's elderly mother.

8.2 Class E of The Town and Country Planning (General Permitted Development) (Amendment) (Wales) Order 2013 states;

Permitted development

E. The provision within the curtilage of the dwellinghouse of—

(a) any building or enclosure, raised platform, swimming or other pool required for a purpose incidental to the enjoyment of the dwellinghouse as such, or the maintenance, improvement or other alteration of such a building, enclosure, platform or pool; or

(b) a container used for domestic heating purposes for the storage of oil or liquid petroleum gas.

Development not permitted

E.1 Development is not permitted by Class E if—

- (a) the total area of ground covered by buildings, enclosures, raised platforms, pools and containers within the curtilage (other than the original dwellinghouse) would exceed 50% of the total area of the curtilage (excluding the ground area of the original dwellinghouse);
- (b) any part of the building, enclosure, raised platform, pool or container would extend beyond a wall comprised in the principal elevation of the original dwellinghouse;
- (c) any part of the building, enclosure, raised platform, pool or container would extend beyond a wall comprised in a side elevation of the existing dwellinghouse, and would be nearer to the highway than—
 - (i) the wall comprised in that side elevation which is nearest to the highway; or
 - (ii) any point 5 metres from the highway; whichever is the nearer to the highway;
- (d) the building would have more than one storey;
- (e) the height of any part of the building, enclosure or container, measured from the surface of the ground immediately adjacent to that part, would exceed—
 - (i) 4 metres in the case of a building having a roof with more than one pitch;
 - (ii) 3 metres in any other case;
- (f) any part of the building, enclosure or container would be—
 - (i) within 2 metres of the boundary of the curtilage of the dwellinghouse; and
 - (ii) exceed 2.5 metres in height above the surface of the ground immediately adjacent to it;
- (g) the height of the eaves of the building, measured at any point along their length, would exceed 2.5 metres;
- (h) any part of the building, enclosure, pool or container would —
 - (i) be situated within 2 metres of the dwellinghouse; and
 - (ii) exceed 1.5 metres in height above the surface of the ground immediately adjacent to it;
- (i) the building, enclosure, pool or container would be situated within the curtilage of a listed building;
- (j) it would include the construction or provision of a veranda, balcony or raised platform of which any part is more than 30 centimetres above the surface of the ground directly below it;
- (k) it would include the enlargement, improvement or other alteration of any part of a dwellinghouse;
- (l) it would include the installation, alteration or replacement of a microwave antenna; or
- (m) the capacity of the container would exceed 3,500 litres.

Interpretation of Class E

E.3 For the purposes of Class E, “purpose incidental to the enjoyment of the dwellinghouse as such” includes the keeping of poultry, bees, pet animals, birds or other livestock for the domestic needs or personal enjoyment of the occupants of the dwellinghouse.

E.4 For the purposes of paragraphs E.1(b) and E.1(c), a part of a building, enclosure, pool or container is to be determined to extend beyond a wall referred to in those paragraphs if it would be in front of—

- (a) in the case of a wall referred to in paragraph E.1(b)—
 - (i) that wall in its original form; or
 - (ii) that wall as it would exist if its original form were to have been extended, continuing the line of the wall, from each of its side edges to the boundary of the present curtilage of the dwellinghouse; or
- (b) in the case of a wall referred to in paragraph E.1 (c)—
 - (i) that wall as it exists; or
 - (ii) that wall as it would exist if it were to be extended, continuing the line of the wall, from each of its side edges to the boundary of the curtilage of the dwellinghouse.

E.5 In determining the height of the eaves for the purposes of paragraph E.1(g)—

- (a) the determination is to be made by reference to the point where the external walls or other structure supporting the roof meet, or would meet if projected upwards, the lowest point of the upper surface of the roof; but
- (b) no account is to be taken of any parapet wall or any part of the roof slope which overhangs the external walls or other structure supporting the roof.

criteria however the use of the outbuilding does not. In order to be permitted under Class E, any building must be for a purpose incidental to the enjoyment of the dwellinghouse. The proposed annexe would contain a bedroom and living area. These are facilities that are typically within a dwelling and are considered to be 'primary' uses of a dwelling whereas incidental purposes are those supplementary to the main dwelling. In the case of *Peché D'Or Investments v Secretary of State for the Environment* [1996] J.P.L, the judge explained that "additions to the normal basic domestic living accommodation of a dwelling house, such as a bedroom, would not be expected to be regarded as being "incidental to the enjoyment of a dwelling house as such" because they were generally an integral part of the ordinary residential use as a dwelling house". It is considered that the proposed outbuilding to be used as an annexe would fail to accord with the criteria set out in Class E as it would not be a use incidental to the dwellinghouse, and is therefore not permitted development.

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 The proposed annex duplicates primary accommodation provided in the main dwelling and is not incidental development and therefore fails to comply with the criteria set out in Schedule 2, Part 1, Class E of The Town and Country Planning (General Permitted Development) Order 1995 (as amended) and is therefore not permitted development.

11. DECISION

REFUSED

01 The proposed annex duplicates primary accommodation provided in the main dwelling and is not incidental development within the curtilage of the dwellinghouse. It therefore fails to comply with the criteria set out in Schedule 2, Part 1, Class E of The Town and Country Planning (General Permitted Development) Order 1995 (as amended) and is not permitted development.

NOTE TO APPLICANT

01 This decision relates to plan Nos: SP 26023 01 - Site Location Plan and Existing/Proposed Site Plans and SP 26023 02 Rev C - Proposed Floor Plans and Elevations.

02 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.