

Delegated Decision Report

Application No:	25/0671	Statutory Period Expires:	15th October 2025
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Site:	85 Thompson Avenue Newport South Wales NP19 4LT		
Proposal:	LAWFUL DEVELOPMENT CERTIFICATE FOR A PROPOSED ANNEX		
Applicant:	A. Wilkins		
Type:	Lawful Development Certificate Proposed	Ward:	Lliswerry
Decision:	REFUSED		

1. BACKGROUND

1.1 None.

2. SITE LOCATION AND CONTEXT

2.1 The property is a semi-detached dwelling with a parking area to the front and large garden to the rear.

3. DESCRIPTION OF DEVELOPMENT

3.1 The outbuilding would be located in the rear garden and would measure a depth of 3.7m, width of 8m and height of 2.5m. The building would accommodate a bedroom, shower room and open plan living room and kitchen.

4. RELEVANT SITE HISTORY

App Number	Proposal	Decision	Decision Date
24/0632	REAR INFILL EXTENSION IN ASSOCIATION WITH THE CREATION OF AN ANNEXE	GRANTED WITH CONDITIONS	05/12/2024

5. PLANNING POLICY

5.1 None relevant.

6. CONSULTATION RESPONSES

6.1 None.

7. PUBLIC REPRESENTATIONS

None.

8. ASSESSMENT

8.1 Schedule 2, Part 1, Class E of The Town and Country Planning (General Permitted Development) 1995 (as amended)¹ 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.

¹ Town and Country Planning (General Permitted Development) (Amendment) (Wales) Order 2013

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.*

E.2. In the case of any land within the curtilage of the dwellinghouse which is on article 1(5) land or within a World Heritage Site, development is not permitted by Class E if—

- (a) the total area of ground covered by buildings, enclosures, pools and containers situated more than 20 metres from any wall of the dwellinghouse would exceed 10 square metres;*
- (b) any part of the building, enclosure, pool or container would be situated on land between a wall comprised in a side elevation of the existing dwellinghouse and the section of the boundary of the curtilage of the dwellinghouse which faces that wall.*

- 8.2 The scale and siting of the outbuilding accords with the above permitted development 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 annex would contain a bedroom and living room. 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 *Peche 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 annex 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 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.

NOTE TO APPLICANT

01 This decision relates to plan Nos: Site Layouts as Existing and Proposed Drawing No.PL01 and Ground Floor Plan, Elevations as Proposed and Site Location Plan Drawing No.PL02.

02 The development plan for Newport is the Newport Local Development Plan 2011 – 2026 (Adopted January 2015). No policies were relevant to the determination of this application.

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.