

Delegated Decision Report

Application No:	26/0375	Statutory Period Expires:	11th September 2026
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Site:	24 Corporation Road Newport South Wales NP19 0AR		
Proposal:	LAWFUL DEVELOPMENT CERTIFICATE (PROPOSED) FOR CHANGE OF USE FROM A3 TAKEAWAY TO A1 RETAIL USE, TOGETHER WITH A SELF CONTAINED FLAT ON THE FIRST FLOOR		
Applicant:	S Nasser		
Type:	Lawful Development Proposed	Ward:	Victoria
Decision:	REFUSED		

1. BACKGROUND

1.1 None.

2. SITE LOCATION AND CONTEXT

2.1 The property is a commercial unit located on the corner of Corporation Road and Grafton Road.

3. DESCRIPTION OF DEVELOPMENT

3.1 A certificate of lawfulness is sought for the proposed change of use from an A3 takeaway to an A1 retail use with a self-contained flat above.

4. RELEVANT SITE HISTORY

App Number	Proposal	Decision
91/1032	INSTALLATION OF NEW SHOP FRONT AND EXTERNAL STAIRCASE	GRANTED WITH CONDITIONS
98/0653	CHANGE OF USE FROM RETAIL - CLASS A1 TO TAKE AWAY - CLASS A3	REFUSED
08/0241	PROPOSED CHANGE OF USE OF A1 RETAIL PREMISES TO A3 CAFE	REFUSED
08/1330	PROPOSED CHANGE OF USE OF A1 RETAIL PREMISES TO A3 CAFE (RESUBMISSION FOLLOWING REFUSAL OF PLANNING PERMISSION 08/0241)	GRANTED WITH CONDITIONS
10/0368	CERTIFICATE OF LAWFUL DEVELOPMENT FOR PROPOSED USE OF FIRST FLOOR OFFICE FOR CAR HIRE OFFICE	GRANTED
15/1263	CHANGE OF USE TO TAKEAWAY (CLASS C3)	GRANTED WITH CONDITIONS

5. PLANNING POLICY

5.1 NOT APPLICABLE.

6. CONSULTATION RESPONSES

None.

7. PUBLIC REPRESENTATIONS

None.

8. ASSESSMENT

8.1 Use Class Order

8.1.1 The Town and Country Planning (Use Classes) Order 1987 (as amended)

Class A1 – Shops

Use for all or any of the following purposes—

- (a) for the retail sale of goods other than hot food,*
 - (b) as a post office,*
 - (c) for the sale of tickets or as a travel agency,*
 - (d) for the sale of sandwiches or other cold food for consumption off the premises,*
 - (e) for hairdressing,*
 - (f) for the direction of funerals,*
 - (g) for the display of goods for sale,*
 - (h) for the hiring out of domestic or personal goods or articles,*
 - (i) for the reception of goods to be washed, cleaned or repaired,*
- where the sale, display or service is to visiting members of the public.*

Class A3 – Food and drink

Use for the sale of food or drink for consumption on the premises or of hot food for consumption off the premises.

8.1.2 Use class A3 is permitted to change to A1. A1 is permitted to change to a mixed use for any purpose within Class A1 and as a single flat.

8.1.3 Planning permission is not needed when both the present and proposed uses fall within the same 'class' within the Town and Country Planning (Use Classes) Order 1987, or if the Town and Country Planning (General Permitted Development) Order 1995 (GPDO) specifies that a change of class is permitted to another specified class.

8.2 Existing Ground Floor Use

8.2.1 This application is a lawful development certificate (proposed) and as per the applicant's submission, the current use at ground floor is an A1 barbershop. Evidence indicates the property has been used as A1 at GF for several years and there is no evidence provided that shows a previous use as A3 notwithstanding the site history above. The applicant appears to assume that the lawful use is A3 but there is no confirmation of this. The purpose of the application is to confirm a proposed change of use from A3 to A1 is lawful when it is clear that the current use is not A3 and there is no evidence of an A3 use in recent years. In this respect the application is flawed and whilst the Planning Statement clearly understands the current use is not A3 and provides no evidence that it has been used for A3 (and that such a GF use is the lawful use). It appears to assume that because planning permission has previously been given for an A3 use of the site that this is the lawful use. However, unless such a permission was implemented, this is not true. The application form provides no further clarity. It is likely that the applicant actually wants to confirm the existing A1 use is lawful and to achieve this, evidence to this effect is necessary but has not been provided.

8.3 Proposed First Floor Use as Self Contained Flat

8.3.1 Class F of Part 3 of the Town and Country Planning (General Permitted Development) Order 1995 (as amended) grants permission as follows:

F. Development consisting of a change of the use of a building—

(a) to a mixed use for any purpose within Class A1 (shops) of the Schedule to the Use Classes Order and as a single flat, from a use for any purpose within Class A1 of that Schedule;

In this case, we know the property is in a mixed use of A1 at GF and a non-A1 use at FF. It is not solely in A1 use and Class F does not apply. The local planning authority considers that the ground and first floor units of no.24 Corporation Road form 2no separate planning units and therefore the first floor would not benefit from permitted development rights associated with the ground floor use and for this reason the lawful development certificate cannot be issued. The reasons for this are outlined further below.

8.3.2 A lawful development certificate (proposed) (ref no.10/0368) was approved in 2010 for the 'proposed use of first floor office for car hire office.' The Officer Report for this application confirms that 'the first floor of the property was previously used as offices for a financial company and was classed as a B1 use.' The office use appeared to be completely unrelated to the ground floor commercial use and therefore represented substantially

different uses.

- 8.3.3 The Council's internal mapping system distinguishes between the ground and first floor uses and lists them separately as '24 Corporation Road – Commercial, Retail, Shops and Showrooms' and 'First Floor 24 Corporation Road – Commercial, Offices and Work Studios.'
- 8.3.4 The floor plans submitted as part of the current application support this separation physically through separate entrances for each unit. The plans also reference them as 'commercial unit (barber shop)' and 'commercial unit 2 (formerly an officer – currently vacant).' This further supports the view that they are substantially different and separate uses.
- 8.3.5 The first-floor use is separate from the ground floor use and is not in A1 use. On this basis, the proposed use of the property for A1 at GF and single flat at FF is not permitted.

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 lawful development certificate fails to demonstrate that the change of use from an A3 takeaway to an A1 retail use with a self-contained flat above is lawful and therefore the certificate cannot be issued.

11. DECISION

REFUSED

01 The proposed development is not lawful. This change of use does not benefit from permitted development rights under the Town and Country Planning (General Permitted Development) Order 1995, Schedule 2, Part 3. Therefore, The Certificate of Lawfulness under Section 192 of The Town and Country Planning Act 1990 (as amended) is not issued and planning permission is required.

NOTE TO APPLICANT

01 This decision relates to plan Nos: Existing Drawings No.PL-001, Proposed Drawings No.PL-002 and Planning Statement.

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.