

Delegated Decision Report

Application No:	25/0469	Statutory Period Expires:	1st December 2025
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Site:	Hawthorn House Whitebrook Lane Llanvaches Newport NP26 3BA		
Proposal:	LAWFUL DEVELOPMENT CERTIFICATE FOR THE PROPOSED CONVERSION OF DOMESTIC GARAGE INTO ANCILLARY LIVING ACCOMMODATION INCLUDING THE ERECTION OF A SMALL EXTENSION TO FORM A BATHROOM		
Applicant:	R Saltmarsh		
Type:	Lawful Development Proposed	Ward:	Bishton And Langstone
Decision:	REFUSED		

1. BACKGROUND

1.1 None.

2. SITE LOCATION AND CONTEXT

2.1 The property is a detached dwelling located in an isolated position on a rural lane. The property occupies a large curtilage with the garage located approximately 12m to the north of the property with vehicle hardstanding between the two.

3. RELEVANT SITE HISTORY

App Number	Proposal	Decision	Decision Date
01/0568	ALTERATIONS TO REAR ELEVATION, ERECTION OF SINGLE STOREY SIDE EXTENSION, CONSERVATORY AND DETACHED STABLES/GARAGE BUILDING	GRANTED WITH CONDITIONS	7.09.2001

4. ASSESSMENT

4.1 This application seeks to confirm, via a lawful development certificate, whether the conversion of an existing garage to an ancillary living accommodation including a small extension is lawful. The garage lies within the residential curtilage and is currently used for storage in association with the dwelling and is therefore incidental to the dwelling. The applicant states the garage was erected in excess of four years ago and is therefore lawful. There is very limited supporting information and the applicant relies primarily on historical street view and aerial photographs in support of the application.

4.2 As can be seen from the planning history above, planning permission was granted for a detached stable/garage building at the property in 2001. That permission was subject to the following condition:

02 The garage/stable building hereby permitted shall be used only for the purposes of a domestic garage and stable, incidental to the enjoyment of the dwellinghouse, and shall at no time be used as a separate or self-contained dwelling, nor for any industrial, commercial or business use.

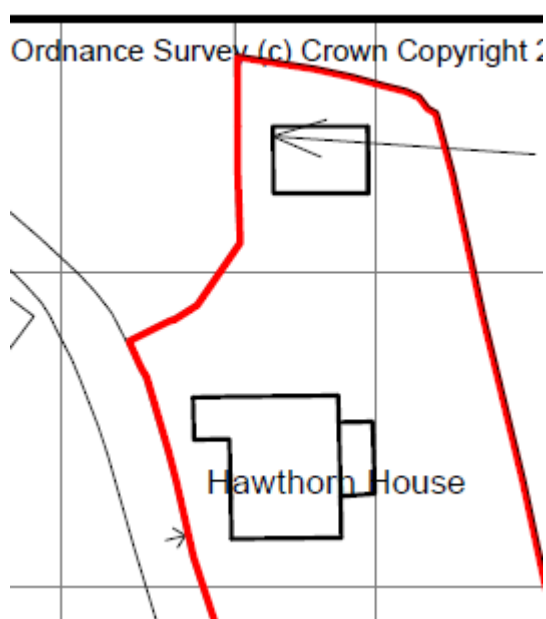
Reason: In order to safeguard the amenities of nearby occupiers.

4.3 The above condition restricts the use of the building to a domestic garage/stable. However, the plans for the above consent (01/0568) show an outbuilding that was approved in a different location (closer to the house) and that is different in terms of scale and design to the building this application relates to. As such, it would appear that this permission was not implemented insofar as the outbuilding is concerned and the building on site has been built without planning permission, albeit potentially permitted development and may be immune

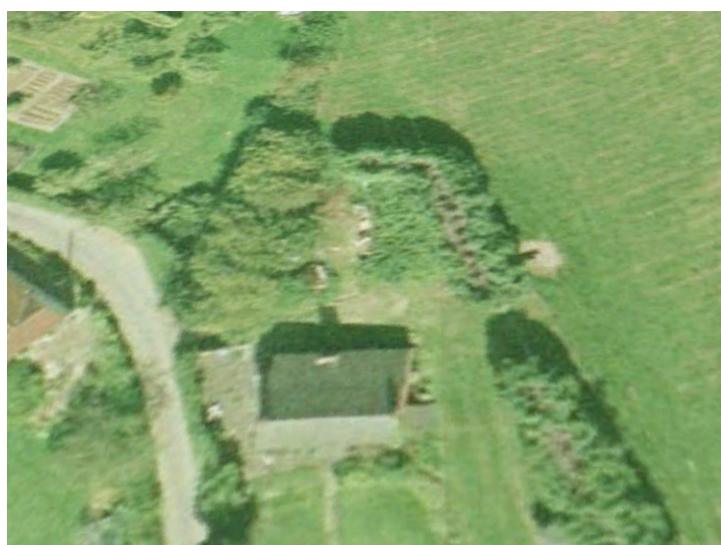
from planning enforcement action if built more than 4 years ago.

4.4 Evidence to support the building having been erected more than four years ago

Historic aerial photographs of the site dating back to 2001 appear to show a building in a similar location to the current outbuilding but sited differently, with the site location plan extract underneath showing the orientation of the building:

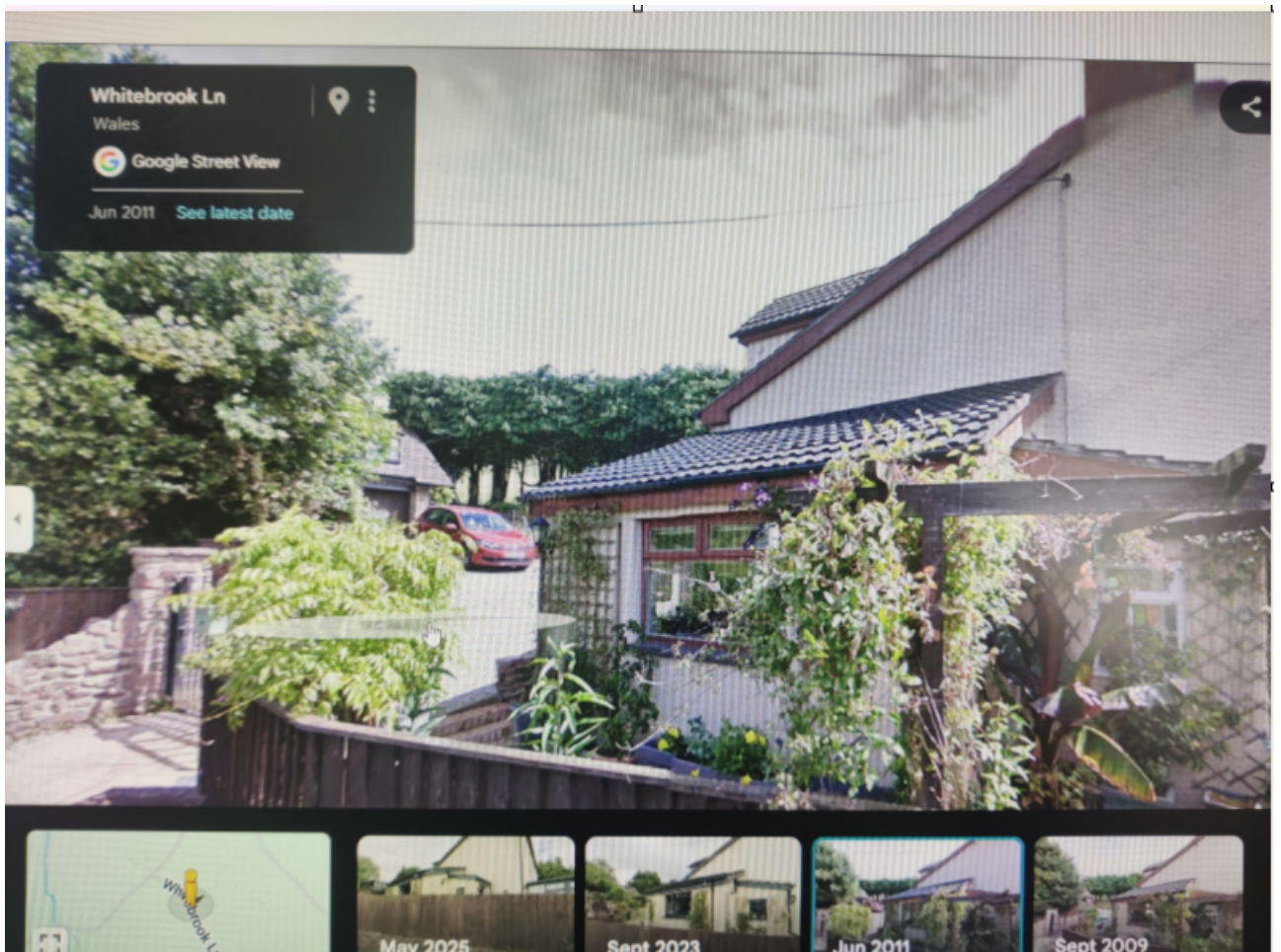


4.5 This building appears to have been demolished by 2006:

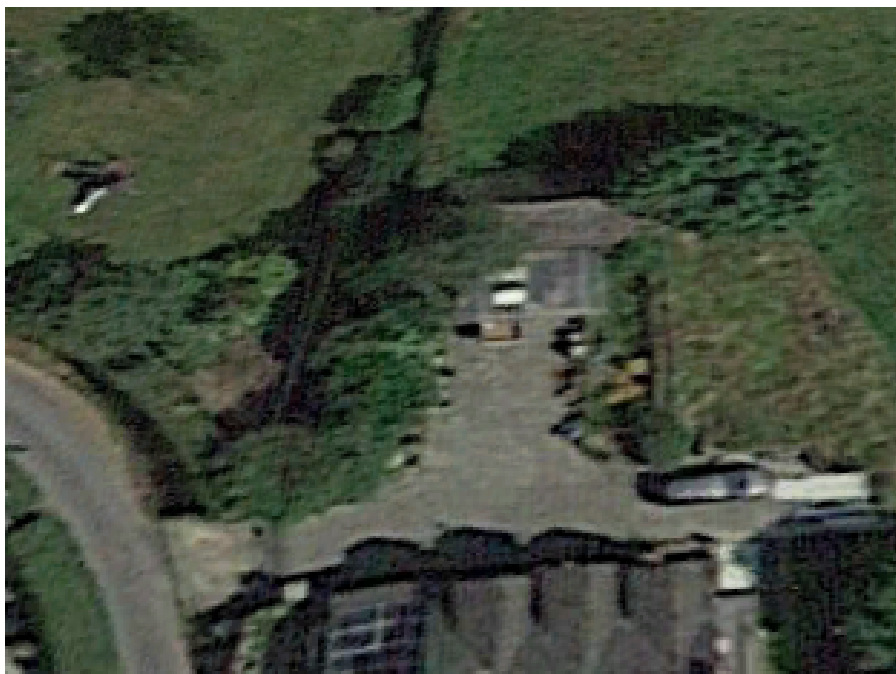


4.6 The aerial image from 2014 appears to show the current building at the site but without the front canopy and the image beneath that is a street view image submitted by the applicant in which part of a building can be seen. The building appears to be sited similarly to that

shown in the supporting information and of a similar appearance:



4.7 In July 2021 the building and canopy appear to be present.



4.8 Whilst no other supporting information has been provided, it would appear from photographs that the building was completed more than four years ago and on the balance of probabilities is therefore immune from enforcement action. The Council has no information that would contradict this.

4.9 Proposed works

In order to accommodate the annex, external works would consist of the insertion of bi-fold doors to the southern elevation and an extension to the east elevation to provide a bathroom. The extension would measure 2.3m in width, 3.6m in length and 2.5m high with a flat roof. The extension would have a window in the south elevation. The internal layout would consist of an open plan living space with a separate bathroom at ground floor and a bedroom in the roof space. It is stated that the annex would be occupied by a family member.

4.10 Section 55 of the Town and Country Planning Act 1990 states that development means the carrying out of building, engineering, mining or other operations in, on, over or under land, or the making of any material change in the use of any buildings or other land. The Town and Country Planning (General Permitted Development) Order 1995 (as amended) is also relevant.

4.11 Two factors are to be considered in determining whether planning permission is required for the conversion of the existing garage to a self-contained annexe; are the physical internal and external works operational development and if so, do they require planning permission and whether the use of the building would amount to a material change of use. The works to the exterior are development. The Permitted Development (PD) rights under Class E allow extensions to outbuildings, providing they do not fall foul of any of the restrictions resulting in it not being PD.

4.12 Class E enables “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;

4.13 Any extension or alteration to the outbuilding would be an improvement or alteration for the purposes of Class E. Given this application is proposed as an *annex with the extension*, it wouldn't subsequently fall within the remit of it being a purpose incidental to the enjoyment of a dwellinghouse as the operational development would enable use as an annex. The use as an annex requires the operation development and it is therefore not the alteration of a building required for a purpose incidental to the enjoyment of the dwellinghouse.

- 4.14 Whilst the outbuilding is considered to be lawful by reason of its age the proposals are not permitted development. In order to be permitted under Class E, any building must be for a purpose incidental to the enjoyment of the dwellinghouse. The annex would contain a bedroom, living room and bathroom. 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 with associated development 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 the development as a whole 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.

10.2 The Certificate of Lawfulness is refused.

11. DECISION

REFUSED

01 The proposal duplicates primary accommodation provided in the main dwelling and is not incidental development and therefore the development as a whole including extension and alterations 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: 2542/02B, 2542/04A, 2542/03, 2542/05B, 2542/01A.

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.