

Delegated Decision Report

Application No:	26/0330	Statutory Period Expires:	10th July 2026
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Site:	<i>Broadlands Broadway Caerleon Newport NP18 1AY</i>		
Proposal:	<i>LAWFUL DEVELOPMENT CERTIFICATE FOR PROPOSED SINGLE STOREY EXTENSION AND ERECTION OF ANNEX OUTBUILDING</i>		
Applicant:	<i>S Wilkins</i>		
Type:	Lawful Development Proposed	Ward:	Caerleon
Decision:	REFUSED		

1. BACKGROUND

- 1.1 The property is a detached bungalow. It is located within Article 1(5) land and occupies a large plot adjacent to Broadway. The accessway to the Priory Hotel is located to the northeast of the site.

2. RELEVANT SITE HISTORY

None.

3. ASSESSMENT

- 3.1 The proposals include a single storey extension that would measure 3m in width, 3.64m in length and 2.68m in height with a flat roof.

- 3.2 Class A of The Town and Country Planning (General Permitted Development) (Amendment) (Wales) Order 2013 is relevant. It states:

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

(a) as a result of the works, the total area of ground covered by buildings within the curtilage of the dwellinghouse (other than the original dwellinghouse) would exceed 50% of the total area of the curtilage (excluding the ground area of the original dwellinghouse);

(b) the height of the part of the dwellinghouse enlarged, improved or altered would exceed the height of the highest part of the roof of the existing dwellinghouse;

(c) the height of the eaves of the part of the dwellinghouse enlarged, improved or altered would exceed the height of the eaves of the existing dwellinghouse;

(d) the enlarged part of the dwellinghouse would be within 2 metres of the boundary of the curtilage of the dwellinghouse and—

(i) the height of the eaves of any part of the enlarged part which is within 2 metres of the boundary of the curtilage of the dwellinghouse would exceed 3 metres; or

(ii) the height of any part of the enlarged part which is within 2 metres of the boundary of the curtilage of the dwellinghouse would exceed 4 metres;

(e) the enlarged part of the dwellinghouse would extend beyond a wall comprised in the principal elevation of the original dwellinghouse;

(f) the enlarged part of the dwellinghouse 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;

(g) the enlarged part of the dwellinghouse would extend beyond a wall comprised in a side elevation of the original dwellinghouse, would have a single storey and—

(i) the enlarged part of the dwellinghouse would exceed 4 metres in height; or

(ii) the width of the widest part of the resulting dwellinghouse would exceed the width of the widest part of the original dwellinghouse by more than 50%;

(h) the enlarged part of the dwellinghouse would extend beyond a wall comprised in a side elevation of the original dwellinghouse, would have more than one storey, either in its own right or if considered together with any part of the existing dwellinghouse, and—

(i) the enlarged part of the dwellinghouse would be within 10.5 metres of any boundary which is—

(aa) a boundary of the curtilage of the dwellinghouse; and

- (bb)opposite the relevant side elevation;
- (ii)the enlarged part of the dwellinghouse would be set back, by less than 1 metre, from the point nearest to that part in any wall comprised in the principal elevation of the original dwellinghouse; or
- (iii)the width of the widest part of the resulting dwellinghouse would exceed the width of the widest part of the original dwellinghouse by more than 50%;
- (i)the enlarged part of the dwellinghouse would extend beyond the rear wall of the original dwellinghouse, would have a single storey and would —
- (i)extend beyond the relevant part or, as the case may be, any of the relevant parts of the rear wall of the original dwellinghouse by more than 4 metres; or
- (ii)exceed 4 metres in height;
- (j)the enlarged part of the dwellinghouse would extend beyond the rear wall of the original dwellinghouse, would have more than one storey, either in its own right or if considered together with any part of the existing dwellinghouse, and—
- (i)the ground floor storey would extend beyond the relevant part or, as the case may be, any of the relevant parts of the rear wall of the original dwellinghouse by more than 4 metres;
- (ii)the first floor or higher storey would extend beyond the relevant part or, as the case may be, any of the relevant parts of the rear wall of the original dwellinghouse by more than 3 metres; or
- (iii)the first floor or higher storey would be within 10.5 metres of any boundary which is—
- (aa)a boundary of the curtilage of the dwellinghouse; and
- (bb)opposite the rear wall of the dwellinghouse;
- (k)it would consist of or include external wall insulation which projects from that part of the exterior of the dwellinghouse to which it is affixed by more than 16 centimetres; or
- (l)it would consist of or include—
- (i)the construction or provision of a veranda or raised platform;
- (ii)the construction or provision of a balcony which—
- (aa)contains a platform of any description;
- (bb)projects from the part of the exterior of the dwellinghouse to which it is affixed by more than 30 centimetres;
- (cc)if projected downwards in a vertical line to ground level, is within 10.5 metres of any boundary of the curtilage of the dwellinghouse opposite the relevant side elevation; or
- (dd)would be affixed to a wall comprised in the principal elevation of the dwellinghouse;
- (iii)the construction or provision of a roof terrace, whether or not it would incorporate associated railings, fencing or other means of enclosure;
- (iv)the installation, alteration or replacement of a microwave antenna;
- (v)the installation, alteration or replacement of a chimney;
- (vi)the installation, alteration or replacement of an air source heat pump, solar PV or solar thermal equipment or a flue forming part of a biomass heating system or combined heat and power system;
- (vii)the installation of shutters on any part of the principal elevation of the dwellinghouse; or
- (viii)an alteration to any part of the roof of the dwellinghouse, being an alteration which does not fall within paragraphs A.1(l)(i) to (vii).

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

- (a)it would consist of or include the cladding of any part of the exterior of the existing dwellinghouse with stone, artificial stone, pebble dash, render, timber, plastic, metal or tiles;
- (b)it would consist of or include external wall insulation;
- (c)the enlarged part of the dwellinghouse would have a single storey, would extend beyond a wall comprised in a side elevation of the original dwellinghouse and would—
- (i)extend beyond the relevant part or, as the case may be, any of the relevant parts of a wall comprised in a side elevation of the original dwellinghouse by more than 3 metres; or
- (ii)be set back, by less than 1 metre, from the nearest point in any wall comprised in the principal elevation of the original dwellinghouse; or
- (d)the enlarged part of the dwellinghouse would have more than one storey, either in its own right or if considered together with any part of the existing dwellinghouse.

Conditions

A.3. Development is permitted by Class A subject to the following conditions—

- (a)the appearance of the materials used in the walls, roof or other element of any exterior work must so far as practicable match the appearance of the materials used in the majority of the equivalent element of the existing dwellinghouse;

(b)if any element of an upper-floor window located in a wall, roof slope or other element of a side elevation of the dwellinghouse would, if projected downwards in a vertical line to ground level, be within 10.5 metres of any boundary of the curtilage of the dwellinghouse opposite the relevant wall or roof slope, then the window must be—

(i)obscure-glazed;

(ii)non-opening unless any part of the window which can be opened is, when measured at any point along the lowest edge of that part, at least 1.7 metres above the internal floor or stair of the dwellinghouse directly below that point; and

(iii)permanently maintained in compliance with paragraphs A.3(b)(i) and (ii); and

(c)where the enlarged part of the dwellinghouse has more than one storey, the roof pitch of the enlarged part must, so far as practicable, match the roof pitch of the existing dwellinghouse.

Interpretation of Class A

A.4. For the purposes of paragraph A.1(b)—

(a)in determining the height of the highest part of the roof of the existing dwellinghouse, no account is to be taken of any relevant structure projecting from that roof;

(b)in the determination of the height of the highest part of the dwellinghouse enlarged, improved or altered, account is to be taken of any relevant structure comprised in that part; and

(c)“relevant structure” means any parapet wall, firewall, chimney or other roof furniture or similar structure.

A.5. In determining the height of the eaves for the purposes of paragraphs A.1(c) and A.1(d)—

(a)the determination is to be made by reference to the point where the external walls of the dwellinghouse would, if projected upwards, meet 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 of the dwellinghouse; and

(c)where the existing dwellinghouse has eaves at differing heights, a determination for the purposes of paragraph A.1(c) is to be made by reference to the eaves of the part of the existing dwellinghouse from which the enlarged, improved or altered part of the dwellinghouse extends.

A.6. For the purposes of paragraphs A.1(e) and A.1(f), the enlarged part of the dwellinghouse 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 A.1(e)—

(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 A.1(f)—

(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.

A.7. In determining the height of the enlarged part of the dwellinghouse for the purposes of paragraph A.1(g)(i) or A.1(i)(ii), account is to be taken of any parapet wall, firewall, chimney or other roof furniture or similar structure comprised in that part.

A.8. For the purposes of paragraph A.1(g)(ii) or A.1 (h)(iii) “resulting dwellinghouse” means the dwellinghouse as enlarged, improved or altered, taking into account any enlargement, improvement or alteration to the original dwellinghouse, whether permitted by this Part or not.

- 3.3 The proposed extension would be sited to the north-east elevation of the property. In establishing what the principal elevation of the property is the Welsh Government Technical Guidance for Permitted development for Householders states:

“in some cases a combination of the following factors will need to be considered in order to assist identification of the principal elevation:

architectural detailing – the principal elevation usually contains the main architectural features of the dwellinghouse, eg main entrance door, porch, driveway, bay windows, and/or gables; it will have the more elaborate facade

windows – the principal elevation will usually contain more detailed fenestration and will generally be the elevation with the lowest solid to void (walls to windows) ratio (i.e. the proportion of the wall surface that is punctuated by windows and doors)

relationship to public highway - usually the most visually prominent elevation, when viewed from the public highway

the character, architectural detailing, layout and orientation of adjoining properties and other properties in the street scene should be considered as this will assist in determining the principal elevation

in some cases, particularly when considering development proposals in older, historic buildings, the original orientation of the property - which will be guided by the architecture and layout of the curtilage - may need to be taken into account

the layout of the dwelling and access arrangements should be considered: e.g. an entrance door leading to the hallway/internal staircase/main living area will usually be found on the principal elevation of the dwelling

the principal elevation will usually be the widest elevation of the property (or one of the 2no. widest elevations)

boundary treatment – the rear curtilage will generally be more private”

- 3.4 In this instance the principal elevation is considered to be the north-east elevation. It is the widest elevation and contains the principal entrance to the property and is distinguishable from other elevations by reason of this, albeit it does not face the highway but is visible from it. Whilst on the plans this elevation is referred to as a side elevation, this is not determinative. As such the proposed extension would be sited forward of the principal elevation and therefore requires planning permission.
- 3.5 The proposed outbuilding would measure 8.1m in length, 6m in width, 3.1m in height with a pitched roof (3.6m in height including the plinth). It would be sited to the north-eastern corner of the site and is shown to be approximately 1.5m away from the curtilage boundary.
- 3.6 Class E is relevant to the outbuilding. It 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.

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.

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.

3.7 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. In order to be permitted under Class E, any building must be for a purpose incidental to the enjoyment of the dwellinghouse. No floor plans of the building have been provided but it is labelled on the site plan as guest accommodation. 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 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.

- 3.8 In addition and as previously noted, in this instance the principal elevation is considered to be the north-east elevation. As such the proposed outbuilding would be sited forward of the main elevation and therefore requires planning permission.
- 3.9 Regardless of where the building is sited relative to the house, the building would be within 2m of the curtilage boundary and exceeds 2.5m in height, contrary to part (e) (i) and (ii) and the eaves would measure 2.8m from ground level, contrary to part (g) which states: (g)the height of the eaves of the building, measured at any point along their length, would exceed 2.5 metres.
- 3.10 The outbuilding requires planning permission.

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 extension would be sited forward of the principal elevation and requires planning permission.
- 10.2 The guest accommodation is not incidental development and therefore the development 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. It would also be sited forward of the principal elevation, exceeds 2.5m in height within 2m of the boundary and the eaves would exceed 2.5m from ground level. The outbuilding requires planning permission.
- 10.2 The Certificate of Lawfulness is refused.

11. DECISION

REFUSED

01 Both the extension and the outbuilding would be sited forward of the principal elevation and the outbuilding would exceed 2.5m within 2m of the boundary and its eaves would exceed 2.5m in height. By reason of the scale of the outbuilding related to the main dwelling and intended use of the outbuilding as guest accommodation, it would not be incidental to the dwellinghouse and 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: 001 Rev B, 002 Rev B, 003 Rev B.

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.

04 The applicant is advised that the site is located within a Scheduled Ancient Monument and SAM consent is required from Welsh Government. This should be obtained prior to the submission of a formal planning application.