

Application Number: DM/2026/00169

Proposal: Retrospective change of use from nil use to residential curtilage which includes an extension to approved patio area and a timber structure

Address: 8 Waterside, Abergavenny, NP7 5LJ

Applicant: Mr. G Burrows

Plans: Block Plan Existing/Proposed Block Plan - PP01, Justification Statement
Justification Statement

RECOMMENDATION: Refuse

Case Officer: Alice King
Date Valid: 12.02.2026

This application is presented to Committee after referral by the Council's Delegation Panel and the Local Member

1.0 APPLICATION DETAILS

1.1 Site Description

This application relates to an end of terrace dwelling located within the Park Ward of Abergavenny. The site sits adjacent to the River Gavenny Site of Interest for Nature Conservation (SINC), a local designation, and is an Archaeologically Sensitive Area. There is a group TPO on the opposite side of the river. The site is within the Development Boundary as identified within the Adopted Local Development Plan.

1.2 Proposal Description

Retrospective planning permission is sought for a change of use from nil use to residential curtilage and extension of a patio area which also features a timber structure used to shelter a seating area.

2.0 RELEVANT PLANNING HISTORY (if any)

Reference Number	Description	Decision	Decision Date
DM/2026/00169	Retrospective change of use from nil use to residential curtilage which includes an extension to approved patio area and a timber structure.	Pending Determination	

3.0 LOCAL DEVELOPMENT PLAN POLICIES

Strategic Policies

S13 LDP Landscape, Green Infrastructure and the Natural Environment
S17 LDP Place Making and Design

Development Management Policies

DES1 LDP General Design Considerations
EP1 LDP Amenity and Environmental Protection
NE1 LDP Nature Conservation and Development
GI1 LDP Green Infrastructure

4.0 NATIONAL PLANNING POLICY Future

Wales - the national plan 2040

Future Wales is the national development framework, setting the direction for development in Wales to 2040. It is a development plan with a strategy for addressing key national priorities through the planning system, including sustaining and developing a vibrant economy, achieving decarbonisation and climate-resilience, developing strong ecosystems and improving the health and well-being of our communities. Future Wales - the national plan 2040 is the national development framework and it is the highest tier plan, setting the direction for development in Wales to 2040. It is a framework which will be built on by Strategic Development Plans at a regional level and Local Development Plans. Planning decisions at every level of the planning system in Wales must be taken in accordance with the development plan as a whole.

Planning Policy Wales (PPW) Edition 12

The primary objective of PPW is to ensure that the planning system contributes towards the delivery of sustainable development and improves the social, economic, environmental and cultural well-being of Wales, as required by the Planning (Wales) Act 2015, the Well-being of Future Generations (Wales) Act 2015 and other key legislation and resultant duties such as the Socio-economic Duty.

A well-functioning planning system is fundamental for sustainable development and achieving sustainable places. PPW promotes action at all levels of the planning process which is conducive to maximising its contribution to the well-being of Wales and its communities.

5.0 REPRESENTATIONS

5.1 Consultation Replies

Abergavenny Town Council: Recommend Approval.

MCC SAB: Objects to the proposal.

MCC Biodiversity: Objects to the proposal. The Section 6 Duty of the Environment (Wales) Act 2016 requires planning decisions to result in maintained and enhanced ecological networks. The unauthorised work has a potentially adverse impact on a locally designated site, contrary to LDP Policy NE1.

HENEB: No objection, we have reviewed the detailed information contained on your website and can confirm that archaeological mitigation is not required.

Natural Resources Wales (NRW): No objections.

Welsh Water: No objections.

SEWBRc Search Results - A range of species have been recorded as being within 500m on the site. The area is quite ecologically diverse. Some species include Otter, Bats, Hedgehogs, Slow-

worms, Eels, Butterflies and Moths.

5.2 Neighbour Notification

A site notice was placed within the public realm and neighbours were consulted via letter. No comments have been provided during the consultation period.

5.3 Other Representations

No comments to note.

5.4 Local Member Representations

Cllr Tudor Thomas - has requested that this application be considered by the Council's Delegation Panel as it is quite an involved case. Cllr Thomas attended the Panel meeting on 28th May and agreed the best option was to refer the application to Planning Committee.

Please note all representations can be read in full on the Council's website:

<https://planningonline.monmouthshire.gov.uk/online-applications/?lang=EN>

6.0 EVALUATION

6.1 Principle of Development

The application site is located within the settlement boundary as identified by the proposals map of the Monmouthshire Local Development Plan (LDP) and adjoins an existing residential use. A change of use of the land to residential use in association with the dwelling 8 Waterside is typically considered to be acceptable as there is a presumption in favour of development incidental to the enjoyment of a dwelling house. However, this is subject to the proposal satisfying relevant material planning considerations.

From aerial maps and looking at historic applications, it would appear that the patio has encroached onto the River Gavenny Banks by 2m-3m. The original patio works appear to have taken place more than 10 years ago, but did not encroach onto the banks by the amount we now see today, the patio we see today was laid in 2024 and is of a significant difference in terms of structure and how far it projects compared to the patio that was laid over 10 years ago, and the more recent works as well as the change of use of the land are considered to require planning consent.

6.2 Good Design/Place Making

LDP Policy DES1 is relevant in this case, and states that all development should be of a high-quality sustainable design and respect the local character and distinctiveness of Monmouthshire's built, historic and natural environment. The proposal is simple in design and is typical of what you would see within a domestic garden. There is a structure in the northern part of the garden covering an outdoor seating area, which is of an acceptable size, scale and form. The boundary of the patio features metal hand railings for safety reasons. In general design terms, the proposal is considered to respect the existing form, scale, siting, massing, materials and layout of its setting and any neighbouring quality buildings and it would also maintain reasonable levels of privacy and amenity of occupiers of neighbouring properties. Therefore, the proposal is considered to meet the requirements of Policy DES1 of the Adopted LDP.

6.3 Green Infrastructure

Chapter 6 of Planning Policy Wales (PPW) 12 highlights that a Green Infrastructure (GI) statement should be submitted with all planning applications and will be proportionate to the scale and nature of the development. The statement which will need to be informed by a GI assessment of the site will describe how green infrastructure will be incorporated into the proposal and how the step wise approach to protecting biodiversity, habitats and GI onsite will be managed. A step-wise approach considers what impacts may occur as a result of development activity to any identified biodiversity, habitats and green infrastructure assets and networks that may be present on or bounding a site. The approach then seeks to manage any harm that may occur by (a) avoiding (b) minimising (c) Mitigate / Restore.

The application does not include a detailed Green Infrastructure Statement. Given the amount of riverbank that the patio has extended into, significant GI mitigation/restoration would be required to meet the requirements within Chapter 6. As per the Biodiversity Officer's comments, 'the harm identified cannot be satisfactorily mitigated through conditions or minor design changes'; the proposal is incapable of being able to comply with the step-wise approach. Following the step-wise approach, impacts on biodiversity must be avoided, minimised, mitigated and the compensated for. Compensation must be of significant magnitude to compensate for loss. On balance, the application is not considered to follow the step-wise approach as the loss of the riverbank habitat has not been compensated for. Therefore, the proposal is not considered to adhere with Section 6.4.15 of Planning Policy Wales 12.

6.4 Biodiversity

6.4.1 The Biodiversity Officer has offered an in-depth response to the consultation. 'The proposal is a retrospective application for an extension of a patio area and a wooden shed built on the patio. The unauthorised works have extended 2-3 metres from the development line, directly impacting the River Gavenny, a Site of Interest for Nature Conservation (SINC) designated as a watercourse supporting otters, white clawed crayfish and priority fish and bird species. The SINC designation includes the watercourse and 7m from the water edge; the works have encroached into the SINC boundary. SINC's are recognised as key components of ecological networks and are provided protection against development which may harm them in both Planning Policy Wales and the Monmouthshire LDP. Development affecting a SINC is required to demonstrate that there will be no unacceptable harm, or that such harm is clearly outweighed by overriding public benefit, which has not been demonstrated in this case. The River Gavenny is also a tributary of the River Usk SSSI and SAC and is considered functionally-linked habitat supporting the internationally designated site.'

6.4.2 The Biodiversity Officer explains the impact the proposal will have on the SINC, 'The unauthorised works have resulted in the removal of riparian vegetation along the riverbank, leading to the direct loss of habitat that is important for screening and shading the river corridor. Screening is important to minimise disturbance from the residential development on wildlife using the river corridor. Shading from bank-side vegetation is important in regulating water temperature and supporting aquatic ecology'.

6.4.3 The Local Flood Authority Engineer has confirmed that the structure is already being undermined, with slumping of ground evident beneath it. This instability increases the risk of siltation and sediment input to the watercourse, as eroded material is washed into the river, with consequent adverse effects on water quality and aquatic habitats.

6.4.4 Given the loss of riparian habitat within the SINC buffer, and potential impacts on protected and priority species including by the ongoing instability of the riverbank, the harm identified cannot be satisfactorily mitigated through conditions or minor design changes. The proposal therefore conflicts with national and local policy and should be refused. Removal of the unauthorised works and restoration of the riverbank are necessary to remedy the identified harm.

6.4.5 As per PPW12, section 6.4.4 it is important that biodiversity and ecosystem resilience considerations are taken into account at an early stage in both development plan preparation and when proposing or considering development proposals. On the basis of the Biodiversity Officer's comments, the development has not taken into consideration the harm caused to the ecosystem of the River Gavenny. Section 6.4.4 goes on to say that 'where adverse effects on biodiversity and ecosystem resilience cannot be avoided, minimised or mitigated/restored, and as a last resort compensated for, it will be necessary to refuse planning permission'.

6.4.6 PPW 12 sets out that the planning system has a key role to play in helping to reverse the decline in biodiversity and increase the resilience of ecosystems, at various scales, by ensuring appropriate mechanisms are in place to both protect against loss and to secure enhancement. It is clear that the planning system should ensure that overall there is a net benefit for biodiversity and ecosystem resilience, resulting in enhanced wellbeing.

6.4.7 The applicant has proposed biodiversity enhancements in the form of bat boxes which are to be Schwegler 1FF or similar and bird boxes are to be a Vivara Seville 32mm woodstone Nest box and 1SP Schwegler Sparrow Terrace. These attempt to address the biodiversity net gain policy within PPW12, however, it is acknowledged that the Biodiversity Officer does not consider these enhancements to be sufficient considering the amount of GI and ecological features lost at the

site.

6.4.8 Under the Conservation of Habitats and Species Regulations 2017 it is necessary to consider whether the development should be subject to a Habitat Regulations Assessment. This is in particular reference to the impact of increased concentrations of Phosphates on designated SACs. NRW has set new phosphate standards for the riverine SACs of the Wye and Usk and their catchment areas. Development that may increase the concentration of phosphates levels will be subject to appropriate assessment and HRA.

6.4.9 Under the Habitats Regulations, where a plan or project is likely to have a significant effect on a European site, either alone or in combination with other plans or projects, and where it is not directly connected with or necessary to the management of the site, the competent authority must carry out an appropriate assessment of the implication of the plan or project in view of the site's conservation objectives. Natural Resources Wales has set new nutrient standards for the river SACs in Wales. Any proposed development within the SAC catchments that might increase the amount of nutrient within the catchment could lead to additional damaging effects to the SAC features and therefore such proposals must be screened through a HRA to determine whether they are likely to have a significant effect on the SAC condition.

This application has been screened in accordance with Natural Resources Wales' advice for planning applications within the river Special Areas of Conservation (SACs) catchments (v5 issued February 2026). It is considered that this particular development is unlikely to increase nutrient inputs.

6.5 Impact on Amenity

Due to the nature and location of the development, it is not considered that the proposal would cause any loss of privacy. The patio is sited to the eastern boundary where there are no neighbours. Due to the location and nature of the patio, no loss of light is predicted. The proposal is therefore considered to adhere to the relevant criteria within policies DES1 and EP1 of the adopted LDP.

6.6 Access / Highway Safety/ Parking

The existing parking arrangements on site will be unaffected by the proposals. The driveway will maintain space for two vehicles parking, thus being compliant with Policy MV1 of the LDP.

6.7 Flooding

Due to the proximity of the River to the development, The Lead Local Flood Authority commented in relation to the flood risk at the site, and said 'given the deep nature of the river channel at this location the flood risk presented by this development is likely to be relatively low, although it would be the responsibility of the applicant to make that assessment, supported by appropriate assessment'.

6.8 Drainage

The SAB team commented on the drainage within the site, and has advised 'given the small area of the proposed development (considerably below 100 m²) we have no objection with regard to surface water drainage'.

6.9 Watercourse Management

As per the SAB Officers comments, 'the patio constructed has impinged on the banks of the River Gavenny (a Main River). Such works are inadvisable as over time they lead to undermining and collapse of the structures. In this case, it appears that the lower patio has extended two to three metres beyond the original development line and into the channel of the river. The patio is already starting to be undermined, as shown in the photograph below (dated 14th April 2026)'. The photograph can be seen within the SAB Officer's comments.

In PPW12, section 6.4.15, Local Planning Authorities must seek to minimise the initial impact of development on biodiversity and ecosystems by retaining existing features, develop a management plan for their future care (e.g., trees, hedgerows, species rich grasslands, heath, wetlands, ponds and freshwater habitats) and use appropriate buffers to protect these from construction and operational impacts.

By allowing the hardstanding to encroach so far into the SINC, the river will be adversely impacted as previously highlighted by the Biodiversity Officer. Additionally, the hardstanding and its construction is not an appropriate method of development to ensure that the step-wise approach is being met, as per advice in PPW12. Therefore, this development cannot be supported in this regard.

6.10 Response to the Representations of Third Parties and/or Town Council

6.10.1 No comments to note.

6.11 Well-Being of Future Generations (Wales) Act 2015

6.11.1 The duty to improve the economic, social, environmental and cultural well-being of Wales has been considered, in accordance with the sustainable development principle, under section 3 of the Well-Being of Future Generations (Wales) Act 2015 (the WBFG Act). In reaching this recommendation, the ways of working set out at section 5 of the WBFG Act have been taken into account and it is considered that this recommendation is in accordance with the sustainable development principle through its contribution towards one or more of the Welsh Ministers' well-being objectives set out in section 8 of the WBFG Act.

6.12 Conclusion

6.12.1 The proposal, that forms an incursion into the riverine habitat of the River Gavenny Site of Interest for Nature Conservation, has failed to demonstrate that it complies with the step-wise approach and thus the proposal would fail to comply with section 6.4.15 of Planning Policy Wales (Edition 12, 2024). The proposal would also have a harmful impact upon the SINC which is recognised as a key component of ecological networks and is provided protection against development which may harm it in both Planning Policy Wales and the Monmouthshire LDP. Therefore, the application cannot be supported and is recommended for refusal.

7.0 RECOMMENDATION: REFUSE

Reason for Refusal:

1 The proposal, that forms an incursion into the riverine habitat of the River Gavenny Site of Interest for Nature Conservation, has failed to demonstrate that it complies with the step-wise approach and thus the proposal would fail to comply with section 6.4.15 of Planning Policy Wales (Edition 12, 2024), Dear CPO letter (23/10/19) and Policy NE1 of the adopted Monmouthshire Local Development Plan.