Horsham District Council

DELEGATED APPLICATIONS - ASSESSMENT SHEET

APPLICATION NO./ADDRESS:

DC/25/1873
Bucks Cottage Tismans Common Rudgwick West Sussex RH12 3BJ

DESCRIPTION:

Fill in open well in upper floor (over pool), Installation of new partition. Replacement of 1no. window like for like on the West elevation (Lawful Development Certificate - Proposed)

Detached Dwellinghouse	☒
Semi-Detached / Terrace Dwellinghouse	☐

	Yes	No
Article 2(3) Land	☐	☒
PD rights removed on previous permission	☒	☐

Class E – buildings etc incidental to the enjoyment of a dwellinghouse

E. The provision within the curtilage of the dwellinghouse of—

(a) any building or enclosure, 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 or enclosure; or

(b) a container used for domestic heating purposes for the storage of oil or liquid petroleum gas.

Background

The pool house was constructed under application RW/38/99 (Erection of a new pool and poolhouse). This permission was approved 23/06/1999. Condition 3 of the aforementioned application restricted permitted development rights of the approved building stating:

3 *Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995, or Orders amending or revoking and re-enacting the same, the building(s) shall not be extended or altered in any way, unless permission is granted by the Local Planning Authority on application in that behalf*

Reason: To maintain control over the development in the interests of amenity.

The purpose of the condition is to remove permitted development rights for any extension or alteration to the building. The condition states that the reason for the condition is to control the development in the interests of amenity. The condition does not make a distinction between

Planning Assessment

The development consists of two elements: parts that consist of internal amendments and parts that are consider external amendments.

Internal Amendments

The amendments to the poolhouse regarding the filling of the open well/void on the upper floor and installation of partition walls are considered internal amendments.

The main consideration is whether these works would represent development fall within the definition of 'development' as set out in Section 55 of the Town and Country Planning Act 1990 (as amended) (herein referred to as the TCPA).

The Town and Country Planning Act 1990 defines 'development' as 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 Act classes “building operations” as:

a) demolition of buildings;
b) rebuilding;
c) structural alterations of or additions to buildings; and
d) other operations normally undertaken by a person carrying on business as a builder

The following operations / uses of land are not though included within the definition of development:

a) the carrying out for the maintenance, improvement or other alteration of any building of works which—
    i) affect only the interior of the building, or
    ii) do not materially affect the external appearance of the building

The internal alterations would not be considered development as works would affect only the interior of the building and as such it is not deemed to be development under Section 55 of the TCPA.

Whilst the proposed internal alterations would not be considered to meet the definition of development, the resulting use is relevant. The proposed plans indicate that the upper floor would provide a bedroom, living room, bathroom, and kitchenette. To this effect, the upper floor would contain all of the facilities required for private day-to-day living. The provision of primary habitable accommodation would go beyond what would be considered “incidental to the enjoyment of the dwellinghouse as such” and would be considered to go beyond what would represent permitted development under Class A of Part 1 Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015, as amended.

The use of the upper floor for the purposes proposed would not therefore represent permitted development and would require the benefit of planning permission.

External Amendments

The replacement window would represent an external alteration to the building.

Condition 3 of previous approved application RW/38/99 states that *“the building(s) shall not be extended or altered in any way, unless permission is granted by the Local Planning Authority on application in that behalf”*.

The replacement window would involve an alteration to the building, where condition 3 removes permitted development rights for such alterations. As such, the proposal would be in non-compliance with condition 3 of planning permission reference RW/38/99.

Recommendation: Application Refused

Reason for Refusal:

1 The development would represent an alteration to the building, where condition 3 of planning permission reference RW/38/99 explicitly states that the building shall not be extended or altered in any way unless permission is granted by the Local Planning Authority on application in that behalf. The replacement window would not therefore represent lawful development.

NOTE TO APPLICANT
The Applicant is advised that the use of the upper floor for the accommodation as indicated on Proposed Plan reference 0434/110 REVISION A would go beyond what would be considered "incidental to the enjoyment of the dwellinghouse as such". The use of the building for the purpose shown would not therefore represent permitted development under Class E of Part 1 Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015, as amended. A planning application for the conversion of the building as shown would be required.

DELEGATED

Case Officer sign/initial JBurrowes Date: 09/12/2025

Authorising Officer sign/initial TDale Date: 21/01/2026