



**Horsham
District
Council**

DELEGATED APPLICATIONS - ASSESSMENT SHEET

APPLICATION NO./ADDRESS:

DC/26/1005

Hatches, Lynwick Street, Rudgwick, West Sussex, RH12 3DN

DESCRIPTION:

Erection of single storey outbuilding (Lawful Development Certificate - Proposed).

Detached Dwellinghouse	☒		Yes	No
Semi-Detached / Terrace Dwellinghouse	☐	Article 2(3) Land	☐	☒
		PD rights removed on previous permission	☐	☒

PLANNING ASSESSMENT

The main consideration is whether the proposed outbuilding would fall under the works afforded under 'permitted development rights' as defined within Schedule 2, Part 1, Class E of the Town and Country Planning (General Permitted Development) (England) Order 2015.

Article (2) of Section 192 of the Town and Country Planning Act 1990 states:

"If, on an application under this section, the local planning authority are provided with information satisfying them that the use or operations described in the application would be lawful if instituted or begun at the time of the application, they shall issue a certificate to that effect, and in any case they shall refuse the application."

A lawful development is sought for the proposed erection of an outbuilding with a footprint of 144 sq m, an eaves height of 2.825m and a ridge height of 3.99m. The application states that the building would allow for storage and work on private vehicles, with the submitted plans annotating the building as being a barn / store.

It is noted that representations have been received as part of the application process, and these have been considered to the extent possible in the assessment of this application.

Use of the Land

Part 1 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order, 2015 relates to "development within the curtilage of a dwellinghouse". It is therefore necessary to determine whether the proposed development would be located within the curtilage of Hatches.

For the purposes of the application of permitted development rights bestowed under Part 1 of the Order there is no definition contained within the Order of the term 'curtilage'. A definition afforded in Scot's Law, is that curtilage comprises of:-

“ground which is used for the comfortable enjoyment of a house... and thereby as an integral part of the same, although it has not been marked off or enclosed in any way. It is enough that it serves the purposes of the house... in some necessary or reasonable way.”

The documents submitted and information received from agent as part of the application set out that the entirety of the site is within the same Land Registry Title. This is not though a determinative factor in the identification of the incidental curtilage associated with Hatches.

The outbuilding would be sited approximately 30m to the north of Hatches on land which is currently laid to gravel, with the gravel base (based on aerial photographs) created sometime between July 2022 and May 2024. In July 2022 there was a clear distinction between the northern part of the site and the southern part, with a defined tree line separating what appears to be the incidental residential curtilage and the neighbouring northern land, which has a use more akin to agricultural / paddock. This delineation was removed on the May 2024 aerial photographs, with the trees cut back and the gravel drive / base created.

The established curtilage at Hatches is considered to encompass Hatches itself, the existing outbuilding to the north of Hatches and extends to the south which forms the residential garden. This view is consistent with a preceding householder application on the site, ref: DC/19/1150, for conversion of a garage to an annexe, which was refused planning permission as the siting was considered outside of the incidental curtilage (and could not therefore be progressed through a householder application). The northern section of the site (subject of this application) is more readily associated with the land in which the building to the east, which in previous sale particulars for the site has been listed as a ‘barn’, as an agricultural field.

For the above reasons, the land subject of the application would not benefit from permitted development rights under Part 1 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order, 2015 as amended, and the proposed outbuilding would not represent permitted development under Class E of the aforementioned Part.

Notwithstanding the above, for completeness the following assessment is made as to whether, if sited within the incidental curtilage, the development would represent permitted development: -

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

Permitted development

- (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.**

It was established in *Emin v Secretary of State for the Environment and Mid Sussex District Council* [1989] JPL 909 that there is a need to consider whether ‘*the nature of the activities carried out in the proposed building ensure they are incidental or conducive to the very condition of living in the dwellinghouse*’. It goes on to say that ‘*the physical sizes of buildings could be a relevant consideration in that they might represent some indication as to the nature and scale of the activities*’. As such while size is an important consideration, it is not conclusive, and it must also be considered whether the nature of the use would be incidental.

There is no supporting information to justify the need for the level and scale of the outbuilding being sought. While the level of floorspace sought may be desirable it has not been demonstrated that it would be reasonably required for purposes incidental to the main dwellinghouse, which already

benefits from 2 detached outbuildings which would provide storage and parking space(s). In addition, the size and scale of the proposed outbuilding is a further indicator that its use(s) is unlikely to be incidental or subordinate to the main use of the property as a dwellinghouse.

It is considered that the combination of these factors, on the basis of the evidence available and as a matter of fact and degree, means that the proposed outbuilding would not be reasonably required for purposes incidental to the enjoyment of the dwellinghouse. Therefore, it would not be permitted development falling within Class E of the GPDO.

E.1 Development not permitted:-

Criteria		Yes	No
(a)	permission to use the dwellinghouse as a dwellinghouse has been granted only by virtue of Class G, M, MA, N, P, PA or Q of Part 3 of this Schedule (changes of use);	☐	☒
(b)	the total area of ground covered by buildings, enclosures 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);	☐	☒
(c)	any part of the building, enclosure, pool or container would be situated on land forward of a wall forming the principal elevation of the original dwellinghouse;	☐	☒
(d)	the building would have more than a single storey;	☐	☒
(e)	the height of the building, enclosure or container would exceed— (i) 4 metres in the case of a building with a dual-pitched roof, (ii) 2.5 metres in the case of a building, enclosure or container within 2 metres of the boundary of the curtilage of the dwellinghouse, or (iii) 3 metres in any other case;	☐	☒
(f)	the height of the eaves of the building would exceed 2.5 metres;	☒	☐
Annotated height of 2.825m			
(g)	the building, enclosure, pool or container would be situated within the curtilage of a listed building;	☐	☒
(h)	it would include the construction or provision of a verandah, balcony or raised platform;	☐	☒
(i)	it relates to a dwelling or a microwave antenna;	☐	☒
(j)	the capacity of the container would exceed 3,500 litres.	☐	☒
(k)	the dwellinghouse is built under Part 20 of this Schedule (construction of new dwellinghouses).	☐	☒

		Yes	No	N/A
E.2	In the case of any land within the curtilage of the dwellinghouse which is within— (a) an area of outstanding natural beauty; (b) the Broads; (c) a National Park; or (d) a World Heritage Site, development is not permitted by Class E if 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.	☐	☐	☒

		Yes	No	N/A
E.3	In the case of any land within the curtilage of the dwellinghouse which is article 2(3) land, development is not permitted by Class E if any part of the building, enclosure, pool or container would be situated on land between a wall forming a side elevation of the dwellinghouse and the boundary of the curtilage of the dwellinghouse.	☐	☐	☒

Recommendation: Application Refused

Reason for Refusal:

1. The proposed outbuilding would fall outside of the incidental curtilage of Hatches, Lynwick Street, Rudgwick and would therefore represent a form of development which would not be permitted by Class E of Part 1 within Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015, as amended.
 2. Notwithstanding reason no. 1, it has not been demonstrated, on the balance of probabilities, that the development would be reasonably required for purposes incidental to the enjoyment of the dwellinghouse. The development would not therefore be permitted by Class E of Schedule 2 within Part 1 of the Town and Country (General Permitted Development) (England) Order 2015, as amended.
 3. Notwithstanding reason no. 1, the eaves of the outbuilding would exceed 2.5 metres. The development would not therefore be permitted by Class E (f) of Part 1 within Schedule 2 of the Town and Country (General Permitted Development) (England) Order 2015, as amended.
-

DELEGATED

.....

Authorising Officer sign/initial Guy Everest Date: 14.09.2026