

Delegated Decision

Sign off Sheet

Ref. No:	DM/25/2444	Case Officer:	Andrew Horrell
Application Type:	Lawful Development Certificate -Proposed		
Proposal:	Garden building.		
Site:	33 Dukes Road, Lindfield, Haywards Heath, West Sussex, RH16 2JQ, , ,		
Validation Date	30 Sep 2025	Overall Expiry Date:	23 Oct 2025
Pre-Commencement Conditions Required:		Pre-Com Conditions Date Agreed:	
Recommendation:	Permission	Recommendation Date:	31 Oct 2025
Target Date:	25 Nov 2025	Recommending Officer Signature:	Andrew Horrell

Date Legal Agreement Completed: (if applicable)		No of Representations:	0
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Signed and Agreed By:	Stephen Ashdown	Date:	3 Nov 2025
Comments:			

MID SUSSEX DISTRICT COUNCIL

DM/25/2444

**33 Dukes Road, Lindfield, Haywards Heath, West Sussex, RH16 2JQ, ,
Garden building.
Mr P Lewry**

SUMMARY OF REPRESENTATION LETTERS

None received

PARISH COUNCIL COMMENTS

No comments received

INTRODUCTION

The application seeks a lawful development certificate for the erection of a detached outbuilding to enclose the pool in the rear garden.

SITE AND SURROUNDINGS

33 Dukes Road is a two-storey detached hipped roofed dwelling within a cul-de-sac serving 31-36 Dukes Road. The walls are a mix of face brickwork, hanging tiles, painted render. The property is characterised by an existing front gable and front flat roofed dormer with white upvc windows and mix of timber and upvc doors.

APPLICATION DETAILS

The proposed plans show the erection of a flat roofed detached outbuilding enclosing the existing swimming pool which measures 7.3m in depth, 11.9m in width with an approximate height of 2.45m. The external walls are to be brick to match the dwelling with uPVC windows and aluminium doors.

LEGAL FRAMEWORK

As this is an application to establish whether the proposed development would benefit from permitted development rights and will be a legal decision, planning merits cannot be taken into account when considering this application.

The proposal will be tested against the relevant criteria of Part 1, Class E of Schedule of The Town and Country Planning (General Permitted Development) Order 2015 as amended, which relates to porch additions, as detailed below:

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

Permitted development

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.

Development not permitted

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

- (a) permission to use the dwellinghouse as a dwellinghouse has been granted only by virtue of Class M, N, P 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;
- (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; or
- (j) 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 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.

E.3 In the case of any land within the curtilage of the dwellinghouse which is on 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.

Interpretation of Class E

E.4 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.

ASSESSMENT

Having checked the planning history of the site, standard householder permitted development rights are understood to be intact.

The proposed outbuilding will be within 2m of the curtilage of the southern side boundary of the property. The materials are to be visually similar to the host dwelling (face brickwork, uPVC windows and aluminium doors)

The description of the application and plans make clear that the outbuilding will be an incidental usage to the main house as a swimming pool with changing room, shower room and WC.

In *Emin v SSE and Mid Sussex District Council* [1989] 58 P & CR 416 it was established that whilst the size of the building may be an important consideration when determining if a building is to be used incidental to the enjoyment of a dwellinghouse, it is not by itself conclusive. In particular, there is a need to consider whether a proposed building is genuinely and reasonably required or necessary in order to accommodate the proposed use or purpose.

It is clear the garden forms part of the property's curtilage. The development would leave the vast majority of the curtilage to the property as domestic garden, thereby falling comfortably within the 50% footprint restriction prescribed by Class E.

The Location and dimensions of the proposal comply with the criteria specified above.

CONCLUSION

In conclusion, the proposed development is deemed to comply with the applicable permitted development criteria as set out within Class E of Part 1 to Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) and therefore a certificate can be issued.

Decision: Permission

Case Officer: Andrew Horrell