



Appeal Decision

by John Braithwaite BSc(Arch) BArch(Hons) RIBA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27 November 2025

Appeal Ref: APP/E5330/X/24/3351252

198 Domonic Drive, New Eltham, London SE9 3LE

- The appeal is made under section 195 of the Town and Country Planning Act 1990 (as amended) against a failure to give notice within the prescribed period of a decision on an application for a certificate of lawful use or development (LDC).
 - The appeal is made by Mr Erdogan Poinci against Royal Borough of Greenwich.
 - The application ref 24/0859/CP is dated 13 March 2024.
 - The application was made under section 192(1)(b) of the Town and Country Planning Act 1990 (as amended).
 - The development for which an LDC is sought is demolition of garage and replacement with an outbuilding.
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Decision

1. The appeal is allowed and attached to this decision is an LDC describing the proposed development which is found to be lawful.

Preliminary Matters

2. Determination of the appeal requires an assessment of the proposed development against the provisions of The Town and Country Planning (General Permitted Development)(England) Order 2015 (the GPDO). The proposed development is shown on drawings submitted with the application. In these circumstances visiting the site is unnecessary. The appeal has been determined without undertaking a site visit.
3. An application for an award of costs has been made by the Appellant against the Council. This application is the subject of a separate Decision.

Reasons

4. 198 Domonic Drive is a semi-detached two-storey dwelling on a corner plot with frontages to Dominic Drive and Edgebury. The property has a large side and rear garden at the rear of which is an existing garage building, accessed off Edgebury. The proposed development is the demolition of the existing garage and the construction of a building that would accommodate, principally, a therapy pool. Under Class E of Part 1 of Schedule 2 of the GPDO the provision within the curtilage of a dwellinghouse of any building required for a purpose incidental to the enjoyment of the dwellinghouse is permitted development, subject to limitations set out in paragraph E.1.
5. The Council has not suggested that the proposed building would not be for purposes incidental to the enjoyment of the dwellinghouse and has not commented on whether the proposed building would satisfy the dimensional limitations of Class E. The Council did not determine the application but have stated that "Had application 24/0859/CP been formally determined by the Local Planning Authority, the Certificate of Lawfulness would have been refused on the basis of the significant inconsistencies and errors within the application drawings".

6. Three drawings were submitted with the application; EP/10 'Site Plan', EP/11 'Layout Plan' and EP/12 'Elevations'. On EP/10 there are two scale bars which is confusing. But one of these, in the top right hand corner, can be ignored because it is clearly erroneous. The other scale bar is above the plan, showing a scale of 1:250, and using this scale bar two out of the three dimensions shown on the drawing correlate to the scale. The one exception is the 2.8 metre dimension given for the distance between the proposed building and the rear boundary, which scales at 2.0 metres. But the reason for giving dimensions is that there no reason to rely on the scale bar.

7. Measuring the building on EP/11 and EP/12 immediately indicates that they have the same scale. The lack of a scale bar on EP/12 is therefore inconsequential. All of the dimensions shown on the drawings, given a reasonable margin of error for hand drawn drawings, correlate to the scale bar on EP/11, even the 2.8 metre distance between the proposed building and the rear boundary shown on EP/11. When setting out a building on site reliance should never be placed on scaling from a drawing; it is the dimensions shown on drawings that are crucial. There is no reason to doubt the dimensions shown on the drawings.

8. The size of the building relative to the size of the plot is accurately drawn, and the proposed building is accurately dimensioned. There is no reason to doubt that a building of the dimensions shown could be introduced onto the plot with the dimensions to site boundaries as shown on the drawings. If constructed to the dimensions shown on the drawings the proposed building would comply with the dimensional limitations of Class E. Furthermore, the proposed outbuilding is for purposes incidental to the enjoyment of the dwellinghouse and would therefore be development permitted under Class E of Part 1 of Schedule 2 of the GPDO.

9. For the reasons given above, and on all evidence now available, had the Council refused to grant an LDC for demolition of garage and replacement with an outbuilding at 198 Domonic Drive, New Eltham, London the refusal would not have been well-founded and the appeal succeeds. The powers transferred under section 195(2) of the 1990 Act as amended have been exercised accordingly.

John Braithwaite

Inspector



Lawful Development Certificate

TOWN AND COUNTRY PLANNING ACT 1990: SECTION 191
(as amended by Section 10 of the Planning and Compensation Act 1991)

TOWN AND COUNTRY PLANNING (DEVELOPMENT MANAGEMENT PROCEDURE) (ENGLAND)
ORDER 2015: ARTICLE 39

IT IS HEREBY CERTIFIED that on 13 March 2024 the operations prescribed in the First Schedule hereto in respect of the land specified in the Second Schedule hereto and edged and cross-hatched in black on the plan attached to this certificate, were lawful within the meaning of section 191(2) of the Town and Country Planning Act 1990 (as amended), for the following reason:

The proposed outbuilding is development permitted under Class E of Part 1 of Schedule 2 of the GPDO

Signed

John Braithwaite

Inspector

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Reference: APP/E5330/X/24/3351252

First Schedule

Demolition of garage and replacement with an outbuilding

Second Schedule

Land at 198 Domonic Drive, London SE9 3LE

IMPORTANT NOTES

This certificate is issued solely for the purpose of Section 191 of the Town and Country Planning Act 1990 (as amended).

It certifies that the operations described in the First Schedule taking place on the land specified in the Second Schedule were lawful, on the certified date and, thus, were not liable to enforcement action, under section 172 of the 1990 Act, on that date.

This certificate applies only to the extent of the operations described in the First Schedule and to the land specified in the Second Schedule and identified on the attached plan. Any operation which is materially different from that described, or which relates to any other land, may result in a breach of planning control which is liable to enforcement action by the local planning authority.



Plan

This is the plan referred to in the Lawful Development Certificate dated: 27 November 2025

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Land a: 198 Domonic Drive, London SE9 3LE

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Scale: Not to Scale

