



Appeal Decision

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

an Inspector appointed by the Secretary of State

Decision date: 01 December 2025

Appeal Ref: APP/J1535/X/24/3352296

83 Old Nazeing Road, Nazeing, Waltham Abbey EN10 6RN

- The appeal is made under section 195 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant a certificate of lawful use or development (LDC).
- The appeal is made by Ms Lisa Bornheim against the decision of Epping Forest District Council.
- The application ref EPF/1753/24, dated 28 August 2024, was refused by notice dated 12 September 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 construction of new pool house.

Decision

1. The appeal is allowed and attached to this decision is an LDC describing the proposed operation 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.

Reasons

3. 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. The Council does not dispute that the proposed pool house would be built in the curtilage of the dwellinghouse and that it would comply with the limitations of paragraph E.1. They claim, however, that the outbuilding, because of its size would not be for a purpose incidental to the enjoyment of the dwellinghouse.
4. The judgement in *Emin v SSE [1989] JPL909* confirmed that regard should be had not only to the use to which the building would be put, but also to the nature and scale of that use in the context of whether it was for a purpose incidental to the enjoyment of the dwellinghouse. The physical size of the building in comparison to the dwelling might be part of that assessment but is not in itself conclusive. The fundamental question is whether the building is genuinely and reasonably required or necessary to accommodate the proposed use and thus to achieve the intended purpose.
5. 83 Old Nazeing Road is a substantial bungalow in a substantial plot. A swimming pool is specifically referred to in Class E as being for a purpose incidental to the enjoyment of a dwellinghouse. The pool in this case would be 7 x 14 metres though the building would be 20 metres by about 11 metres to allow for a pool surround,

toilet/shower facilities and a plant room. The pool would be modest in size and appropriate for family occupation of the substantial bungalow. The building would take up only a small part of the substantial plot and would be comparable in footprint to the bungalow. The building is reasonably required to accommodate the proposed use.

6. The pool house is for purposes incidental to the enjoyment of the dwellinghouse, is reasonably required for that purpose, and would therefore be development permitted under Class E of Part 1 of Schedule 2 of the GPDO.

7. For the reasons given above, and on all evidence now available, the Council's refusal to grant an LDC for construction of new pool house at 83 Old Nazeing Road, Nazeing, Waltham Abbey was not 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 28 August 2024 the operations described 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 operations are development permitted under Class E of Part 1 of Schedule 2 of the GPDO.

Signed

John Braithwaite

Inspector

Date: 01 December 2025

Reference: APP/J1535/X/24/3352296

First Schedule

Construction of new pool house

Second Schedule

Land at 83 Old Nazeing Road, Nazeing, Waltham Abbey EN10 6RN

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: 01 December 2025

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Land at: 83 Old Nazeing Road, Nazeing, Waltham Abbey EN10 6RN

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Scale: Not to Scale

