



Appeal Decision

Site visit made on 12 May 2026

by **Mark Harbottle BSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 27 May 2026

Appeal Ref: APP/F4410/X/25/3371327

Maebrice, Thorpe Lane, Thorpe in Balne, Doncaster DN6 0DY

- The appeal is made under section 195 of the Town and Country Planning Act 1990 (as amended) ("the Act") against a refusal to grant a certificate of lawful use or development (LDC).
 - The appeal is made by Mr R Whitaker against the decision of City of Doncaster Council.
 - The application ref 25/00995/CPL, dated 7 May 2025, was refused by notice dated 30 June 2025.
 - The application was made under section 192(1)(b) of the Act.
 - The development for which an LDC is sought is: Side and rear extension, porch extensions, and domestic swimming pool along with domestic workshop and domestic stables.
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Decision

1. The appeal is dismissed insofar as it relates to the provision of detached swimming pool with outbuilding and additional outbuilding/stables.
2. The appeal is allowed insofar as it relates to erection of porch extension to front, single storey extensions to side, single storey extension to rear and attached to this decision is an LDC describing the proposed operations which are found to be lawful.

Preliminary Matters

3. The description of the proposed building operations in the header above is based on the content of the application form. I find the alternative description in the Council's decision notice to describe the proposed development more clearly. This is "erection of porch extension to front, single storey extensions to side, single storey extension to rear, detached swimming pool with outbuilding and additional outbuilding/stables."
4. For brevity, I shall refer to the porch extension to front, single storey extensions to side and the single storey extension to rear collectively as "the extensions." For the same reason, I shall refer to the detached swimming pool with outbuilding and additional outbuilding/stables as "the pool building" and "the stable building" individually and "the buildings" collectively.

Main Issue

5. The main issue to be determined in this appeal is whether the Council's refusal to issue an LDC was well founded. This will turn on whether, in each case, the erection of the extension or the provision of the swimming pool or building would have been lawful if begun on the date of the application.

Reasons

6. Under section 191(2) of the Act a building operation may be found lawful if no enforcement action may be taken in respect of it and it does not contravene any requirement of an enforcement notice then in force. There was no enforcement notice affecting the land in force when the application was made, so it only needs to be determined whether enforcement action could have been taken if any of the proposed operations had begun then.

The extensions

7. It is agreed that Article 3 and Schedule 3, Part 1, Classes A and D of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) ("the Order") permit the erection of the extensions. Their erection would therefore have been lawful if begun on the date of the application.
8. Section 193(4)(a) of the Act specifies that, if an application is made for more than one matter, an LDC may be issued for all those matters or for one or more of them. Accordingly, the erection of the extensions should be found lawful, regardless of any finding on the other matters.

The buildings

9. The appellant considers that enforcement action could not have been taken against the formation of the pool and the erection of the buildings on the date the application was made. That is because of the planning permission granted by Article 3 and Schedule 2, Part 1, Class E of the Order ("Class E") for the provision of buildings and swimming pools among other things within the curtilage of a dwellinghouse. The wording of Class E is specific that such development must be "required for a purpose incidental to the enjoyment of the dwellinghouse as such."
10. Paragraph E.1. of Class E contains limitations on the permission granted by Class E that are relevant to the setting of the appeal site. The Council does not consider any of those limitations to apply, neither does it dispute that the pool and buildings would be provided within the curtilage of the dwellinghouse. However, it contends that they are not required for a purpose incidental to the enjoyment of the dwellinghouse as such and so are not permitted by Class E.
11. It must therefore be considered, in each instance, whether the activities the building is intended to facilitate would, if carried out on the scale it would make possible, be incidental to the enjoyment of the dwellinghouse as such. While the scale of the pool or building alone may not be decisive, it can be useful to consider whether a significantly smaller structure could meet the household's reasonable requirements for the activity in question.
12. Given that the proposed development includes extensions to the dwellinghouse, it is important to be clear what the relevant household is for the purposes of this assessment. Section 192(2) of the Act specifies that a decision to issue or refuse to issue an LDC must be made according to the lawfulness of the matter "at the time of the application."
13. Even if the extensions that would result in a 5-bedroom dwellinghouse are certified as lawful, that 5-bedroom dwellinghouse did not exist when the application was made and there can be no certainty that the extensions would be built. On that basis, the relevant household must be one that could reasonably have occupied the

3-bedroom bungalow with a footprint of 90 sq m on the land at the time of the application, hereafter “the bungalow”.

14. The pool building would have a footprint nearly 12 times that of the bungalow. A dotted line on the proposed plan indicates that the pool would occupy more than half of the building, with the remainder for circulation, seating, changing, a sauna, a steam room and a plant room.
15. The footprint of the stable building would be approximately 3 times that of the bungalow. Half of it would be a linked space occupied by a workshop/hobby room and an associated store. A tack room and 3 stables would account for about a third of the building’s footprint, with the remainder being a wood pellet store.
16. It may not be realistic to expect a domestic swimming pool or a building enclosing it to have a footprint that is subservient to that of the dwellinghouse in the way other outbuildings such as garages, summerhouses or sheds normally do. Indeed, it is not unknown for domestic recreational outbuildings to have large footprints when compared with the dwellinghouses they are incidental to, although that is more likely when the dwellinghouse has accommodation on more than one floor. However, the scale of the pool building alone is not critical, but whether it would be reasonably required by a household occupying the bungalow. The same approach must be taken to the stable building.
17. No information has been provided about the size and composition of the resident household, its recreational requirements, whether swimming or equestrian, or the proposed hobby/workshop activity. Noting that the proposed pool would be of a comparable size to some public pools, it is surprising that nothing has been said about the household’s swimming requirements.
18. The amount of space that may be required for hobby and workshop use will vary according to the nature of the hobby and the activities involved. Noting that this element would occupy a space with a footprint larger than the bungalow, it is surprising that no hobby is identified, and nothing has been said about the household’s associated workshop requirements.
19. Although no information is provided, it is likely that the wood pellet store is to keep fuel for a heating system that would serve the buildings and possibly the extended dwelling. Considering the size of the pool building and the temperature that would need to be maintained, a significant quantity of pellets could be burnt. The household’s requirement for this element of the stable building is therefore largely linked to its requirement for the pool building, which is unexplained.
20. The 3 stables and tack room do not appear excessive for the requirements of a household that might occupy the bungalow. However, I must consider the entire building, including the hobby/workshop areas and wood pellet store assessed above. In any event, it is notable that no area for grazing or exercising of horses or ponies is shown on the proposed plans. It is not clear where such an area might be accommodated on the land when the extent of residential garden shown on the proposed plans and the footprint of the proposed buildings are accounted for.
21. It has therefore not been demonstrated that the proposed pool building or the proposed stable building would be reasonably required for a purpose incidental to the enjoyment of the bungalow as a dwellinghouse. Neither has it been

demonstrated that the reasonable requirements of a household occupying the bungalow could not be met by significantly smaller buildings.

Conclusion

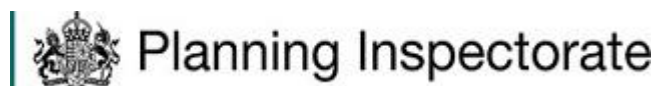
22. For the reasons given above I conclude, on the evidence now available, that:

- The Council's refusal to grant an LDC in respect of the erection of porch extension to front, single storey extensions to side and single storey extension to rear is not well-founded and the appeal should succeed for those parts of the development.
- The Council's refusal to grant an LDC in respect of the provision of detached swimming pool with outbuilding and additional outbuilding/stables is well-founded and the appeal for those parts of the development should fail.

23. I will exercise the powers transferred to me under section 195(2) and 195(3) of the Act.

Mark Harbottle

INSPECTOR



Lawful Development Certificate

TOWN AND COUNTRY PLANNING ACT 1990: SECTION 192
(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 7 May 2025 the operations described in the First Schedule hereto in respect of the land specified in the Second Schedule hereto and edged in red on the plan attached to this certificate, would have been lawful within the meaning of section 192 of the Town and Country Planning Act 1990 (as amended), for the following reason:

The erection of the porch extension to front, the single storey extensions to side, and the single storey extension to rear is permitted by Article 3 and Schedule 3, Part 1, Classes A and D of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).

Signed

Mark Harbottle

Inspector

Date: 27 May 2026

Reference: APP/F4410/X/25/3371327

First Schedule

The erection of porch extension to front, single storey extensions to side, single storey extension to rear as shown on drawings 4134-02 and 4134-03.

Second Schedule

Land at Maebrice, Thorpe Lane, Thorpe in Balne, Doncaster DN6 0DY

IMPORTANT NOTES – SEE OVER

NOTES

This certificate is issued solely for the purpose of Section 192 of the Town and Country Planning Act 1990 (as amended).

It certifies that the use /operations described in the First Schedule taking place on the land specified in the Second Schedule would have been lawful, on the certified date and, thus, was /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 use /operations described in the First Schedule and to the land specified in the Second Schedule and identified on the attached plan. Any use /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.

The effect of the certificate is subject to the provisions in section 192(4) of the 1990 Act, as amended, which state that the lawfulness of a specified use or operation is only conclusively presumed where there has been no material change, before the use is instituted or the operations begun, in any of the matters which were relevant to the decision about lawfulness.

Plan

This is the plan referred to in this decision dated: 27 May 2026

by Mark Harbottle

Land at: Maebrice, Thorpe Lane, Thorpe in Balne, Doncaster DN6 0DY

Reference: APP/F4410/X/25/3371327

Scale: Not to Scale

