



Appeal Decision

Site visit made on 12 May 2026

by **M. P. Howell BA (Hons) Dip TP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 24 June 2026

Appeal Ref: APP/J1535/C/24/3340918

Land at Hainault Hall, Lambourne Road, Chigwell, Essex IG7 6JU

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
- The appeal is made by Mr Aman Singh against an enforcement notice issued by Epping Forest District Council.
- The notice was issued on 20 February 2024.
- The breach of planning control as alleged in the notice is without planning permission, the installation of a swimming pool.
- The requirements of the notice are to:
 - i. Carry out works to remove the swimming pool (shown outlined in blue at the approximate location on the attached plan), breaking up its base and walls, removing the fibre glass shell, the pump and filter system, and surrounding coping.
 - ii. Remove from the Land all waste materials resulting from the works carried out at step (i).
 - iii. Restore the excavated land affected by the works at step (i) by filling in the resulting pit with earth so that the level of the land is contiguous with the existing surrounding land levels.
- The period for compliance with the requirements is: 3 months from the date the Notice takes effect.
- The appeal is proceeding on the grounds set out in section 174(2)(a), (c) and (g) of the Town and Country Planning Act 1990 (as amended). Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.

Summary Decision: The appeal is allowed, the enforcement notice is quashed, and planning permission is granted subject to the conditions set out in the Formal Decision.

Preliminary Matters

1. During the appeal determination, a revised version of the National Planning Policy Framework (the Framework) was adopted in December 2024. The main parties were given an opportunity to comment on the revised Framework's relevance to the developments subject of the Notice, and I have taken their comments into account. When given the opportunity to provide observations on the changes to the Framework, neither party indicated any change to their case.
2. It should also be noted that the government also released a consultation on the Framework during the appeal determination, proposing changes to it, accompanied by a Written Ministerial Statement. As these reforms are still draft proposals and may change, I have given them limited weight. Therefore, it was not necessary to consult the parties on these changes, and my decision is based solely on the Framework.
3. There are several representations that have been submitted in respect of the appeal on ground (a), which highlight concerns over the planting of trees within the adjacent field as well as the existing outbuilding and the lights associated with it. It is noted in the planning history detailed in the officer reports that planning permission has been granted for the replacement outbuilding¹ to serve as an ancillary annex. Furthermore, the planting of trees is not development. As such, it is necessary to

¹ Council reference EPF/0055/19 and EPF/0959/18

indicate that my remit is limited to the matters alleged as part of the Enforcement Notice (Notice), which in this instance is the installation of a swimming pool. As such, any matters outside of those matters alleged are beyond the remit of the Notice, and my consideration of the appeal on ground (a).

The Appeal on Ground (c)

4. To succeed on ground (c), the appellant must demonstrate that the matters alleged in the Notice do not constitute a breach of planning control. The burden of proof is on the appellant, and the evidence alone should be sufficiently precise and unambiguous to demonstrate their case on the balance of probabilities.
5. The planning history is referred to by both parties, which is material to the determination of the appeal. These include Council references EPF/2242/20 and EPF/2113/20, which, for this decision, will be referred to as the 2020 permission and the 2024 refusal, respectively. The appellant sets out in his Statement of Case that planning permission has in fact been granted for the installation of the swimming pool. The appellant considers the 2020 permission to be a planning permission rather than Listed Building Consent, which was erroneously granted by the Council. The Council sets out this is, in fact, a Listed Building Consent (LBC).
6. The appellant indicates that an application for full planning permission was made. The Application Form refers to a householder development, and the proposal description is the 'installation of an outdoor swimming pool and hard landscaped surround in the grounds of Hainault Hall.' The pool is adjacent to and associated with an annexe to the Hall (under construction).² The Application Form and Decision Notice² for the 2020 permission have been submitted as evidence in support of his position. The appellant also indicates that LBC was not needed and provides a screenshot of the Council's planning portal, which refers to the application type of the 2020 permission as full planning permission, not an LBC.
7. The appellant also points out that the Decision Notice refers to the Town and Country Planning Act 1990 (1990 Act) and the Town and Country Planning (Development Management Procedure) Order 2010 (Management Procedure Order), rather than the Planning (Listed Building and Conservation Areas) Act 1990 (Listed Building Act 1990). An informative section of the Decision Notice also refers to the grant of planning permission. Case law³ is also referred to, which indicates that if a planning permission has been granted, there is no power to withdraw that permission based on an administrative error during some stage in the process of decision-making. I will hereafter refer to this caselaw as *Gleeson*.
8. I have had regard to the evidence, but when considering the Decision Notice for the 2020 permission, it must be interpreted objectively as a whole. I appreciate that references are made to the incorrect statutory instruments on the Decision Notice. However, the Decision Notice also refers to the grant of permission for development described above, which specifically refers to Grade II Listed Building Consent for the installation of an outdoor swimming pool and hard landscaped surround in the grounds of Hainault Hall. Furthermore, in the reasons for imposing condition 1 on the Decision Notice, which gives an expiry date for the development to begin, it refers to Section 18(1) of the Listed Building Act 1990.

² Appendix 4- Statement of Case

³ R (Gleeson Developments Limited) v Secretary of State for Communities and Local Government (2014)

9. As such, on an objective reading of the Decision Notice and surrounding material, I am not satisfied that, on a balance of probabilities, it is sufficiently clear and unambiguous that planning permission was granted for the swimming pool, especially with the clear references to a Listed Building Consent in the description of the development and the Listed Building Act 1990 in the reasons for conditions.
10. Furthermore, based on the evidence submitted, the Council registered two applications around the same time with different references, and made two decisions, albeit the 2024 refusal was sometime after the 2020 permission. Nonetheless, the 2020 permission and accompanying officer report is seeking to grant Listed Building Consent, whereas the 2024 refusal clearly refuses planning permission for the installation of the swimming pool. In this regard, even if the errors on the Decision Notice and Officer Report mean the Listed Building Consent is defective, it is not clear that planning permission has been granted by default, particularly when there is a separate refused application for planning permission.
11. I have also had regard to the principles set out in *Gleeson*, but the critical issue in that judgement was whether the decision maker had the power to withdraw that permission, which was granted due to an administrative error. In this instance, the Council has not sought to withdraw the decision due to the errors in the Decision Notice. The dispute is whether the permission is a grant of planning permission or Listed Building Consent based on the evidence presented, which is a different issue to whether the permission can be withdrawn due to the administrative error. As such, I consider the case subject of this appeal to be distinct from the findings in *Gleeson*.
12. For the reasons set out above, the evidence presented is not, on the balance of probabilities, sufficiently precise and unambiguous to show that planning permission has been granted for the installation of the swimming pool in this instance. The appellant has not discharged the required burden of proof and, as such, the alleged operational development set out in the Notice is a breach of planning control.
13. Accordingly, the ground (c) appeal fails.

The Appeal on Ground (a) and the Deemed Planning Application

14. The **main Issues** in this appeal are: -
 - Whether the development would be inappropriate development in the Green Belt having regard to the Framework and any relevant development plan policies.
 - The effect of the development on the openness of the Green Belt and the purposes of including land within it.
 - The effect of the development on the living conditions of the occupants of Maypole Drive, Lambourne Road and Crosby Court having regard to outlook, privacy, light, noise and disturbance.

Reasons

Inappropriate development in the Green Belt

15. The Framework states that inappropriate development is harmful to the Green Belt and should not be approved except in very special circumstances. Paragraph 154 of the Framework sets out the categories of development which may be regarded as

not inappropriate in the Green Belt. The appellant's case is that the development accords with the exception in paragraph 154 (b) for development that involves the provision of appropriate facilities (in connection with the existing use of land or a change of use), including buildings, for outdoor sport and outdoor recreation facilities as well as paragraph 154 (h) (ii) for engineering operations.

16. Policy DM4 of the Epping Forest District Local Plan 2023 (Local Plan) is the relevant Local Plan policy regarding development in the Green Belt. It states that planning permission will not be granted for inappropriate development in this area, except in very special circumstances, in line with national planning policy.
17. Policy DM4 (c) states the construction of new buildings is inappropriate development in the Green Belt. Exceptions to this are: (c) (ii) provision of appropriate facilities for outdoor sport, outdoor recreation and for cemeteries, as long as any development preserves the openness of the Green Belt and does not conflict with the purposes of including land within it. It also indicates in section (d) that certain other forms of development are also not inappropriate in the Green Belt provided they preserve the openness of the Green Belt and do not conflict with the purposes of including land within it, these include (d) (ii) engineering operations.
18. Policy DM4(c)(ii) relates to the construction of 'new buildings' to provide appropriate facilities for outdoor sport and recreation, whereas paragraph 154(b) of the Framework applies more broadly to 'development', including buildings, for such purposes. In this case, the installation of the swimming pool, being largely below ground and formed through excavation, would not reasonably be regarded as a building for the purposes of Policy DM4(c)(ii). However, having regard to the wider scope of the Framework, the proposal could fall within paragraph 154(b).
19. Even if the proposal were to fall within paragraph 154(b), it would still be required to preserve the openness of the Green Belt and not conflict with the purposes of including land within it. Given that the appellant also contends that the development constitutes an engineering operation, I proceed to assess it on that basis under paragraph 154(h)(ii) of the Framework and Policy DM4(d)(ii) of the Local Plan.
20. The development involves excavation to form a permanent swimming pool structure below ground level. It is therefore appropriately characterised as an engineering operation, rather than a building, and falls to be assessed against Policy DM4(d)(ii) of the Local Plan and paragraph 154(h)(ii) of the Framework. I therefore turn to consider whether the development would preserve the openness of the Green Belt and avoid conflict with the purposes of including land within it.

Openness and compliance with the five purposes

21. Paragraph 142 of the Framework states that the Government attaches great importance to Green Belts. The fundamental aim of the Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence. Openness has both a visual and spatial dimension, and the absence of visual intrusion does not mean that there is no impact on the openness of the Green Belt.
22. The swimming pool is located within the rear garden of Hainault Hall. The garden extends to the side and rear of the property, including a 'dogleg' section wrapping behind the immediate neighbour on Lambourne Road. Within this area are a single-storey outbuilding and a mix of hard and soft landscaping, along with domestic

paraphernalia including a trampoline, hot tub, and sunbeds. The swimming pool, as an engineering operation, introduces a physical change to the land. The key issue is whether this change would preserve the openness of the Green Belt and avoid conflict with the purposes of including land within it.

23. The swimming pool is sited within the established garden area, adjacent to the existing outbuilding, and is primarily below ground level, sitting flush with the surrounding hard landscaping. The land remains in lawful residential garden use, and any incidental domestic paraphernalia would be typical of such a setting. In spatial terms, the development does not materially increase the extent of built form. In visual terms, the development is largely screened from public vantage points by intervening buildings, vegetation and its below-ground form. While some views are available from neighbouring properties and the open field to the rear, the pool is modest in scale and contained within an area that is already hard surfaced.
24. The development does not, therefore, result in any loss of visual openness and, when taken together with its limited spatial impact, preserves the openness of the Green Belt. It also does not conflict with the purposes of including land within it. From what I saw, and the evidence before me, it does not lead to urban sprawl, settlement coalescence, or encroachment into the countryside, as it is contained within an established residential garden area. It also does not affect the setting of a historic town, nor prejudice urban regeneration
25. For these reasons, the development, as an engineering operation, falls within the exception set out in Policy DM4(d)(ii) of the Local Plan and paragraph 154(h)(ii) of the Framework. It does not constitute inappropriate development and there is no requirement to consider very special circumstances.

Living Conditions of Neighbours

26. The rear garden area, which features the swimming pool, shares boundaries with the neighbouring properties at 7, 9, 10, 11, and 12 Maypole Drive, separated by a fence and hedgerow. The remaining properties on the same side of Maypole Drive adjoin the field to the rear of the established garden. While there is no formal boundary between the garden and the adjacent field, trees and vegetation serve as boundary from the neighbours who adjoin the field. Wayback Cottage and those on Crosby Court are situated to the southeast, behind the existing outbuilding. The gardens of neighbouring properties vary in size, but they are generally not very deep, reflecting differing separation distances among the dwellings and the development.
27. The development of the swimming pool does not alter the distances between the neighbour's private garden spaces or their habitable windows. It also does not result in any significant changes in levels between the two. The development does not, therefore, result in more meaningful views of the neighbour's private gardens and habitable rooms. I note from the neighbour's representations that the swimming pool may be viewed from their windows. However, the planning system does not exist to protect private interests such as views, and, given the distance, scale, boundaries and angle of views, the development does not raise undue privacy concerns. For the same reasons, it is not overbearing or harmful to any of the neighbours' outlook.
28. The Notice refers to the swimming pool resulting in increased noise and disturbance that would disrupt the quiet enjoyment currently enjoyed by neighbouring residents. The swimming pool is located within the garden of Hainault Hall and would be used in association with the lawful residential use of the property. Its presence would

therefore be expected to give rise to activity of a domestic nature. The evidence before me does not demonstrate that the installation of the pool would result in activity beyond that which might reasonably be expected within a residential garden.

29. I have carefully considered the concerns raised by neighbouring residents. These relate primarily to noise associated with social gatherings during the summer months, including music, rather than noise arising from the operation of the pool itself (for example, from plant or filtration equipment). The disturbance described is therefore linked to the way the garden and pool is used on certain occasions, rather than to the physical presence or characteristics of the development. In this regard, such activity could occur irrespective of the swimming pool. While I recognise the impact that such disturbances may have on neighbouring living conditions, matters of intermittent noise and disturbance of this nature are more appropriately addressed through other regulatory controls, rather than through the determination of this appeal, which relates to the acceptability of the development of the pool itself.
30. Concerns have also been raised in respect of light spill affecting neighbouring properties. However, as set out in the preliminary matters, the appeal relates solely to the installation of the swimming pool, and external lighting and the associated outbuilding structure do not form part of the matters alleged in the Notice. As such, these have not been considered in my assessment. In any event, the swimming pool itself would not give rise to harmful light spill affecting neighbouring occupiers.
31. Accordingly, the development does not have an adverse effect on the living conditions of the occupants of neighbouring properties having regard to outlook, privacy, light, noise and disturbance. The development complies with Policy DM9 of the Local Plan, which is consistent with the Framework on the matter of protecting neighbour's living conditions regarding privacy and amenity.

Other Matters

32. I have had regard to the representations submitted, and the interested party comments made as part of the appeal. Aside from the main issues regarding the Green Belt and neighbour's living conditions addressed above, concerns were also raised regarding foul and surface water drainage, biodiversity impacts, being out of character with the area and overdevelopment. It is also indicated that the appellant did not allow the Council access to the site, that a high number of planning applications have been submitted, and the development has been undertaken without planning permission and compliance with relevant planning conditions.
33. I accept that the site has a contentious history with a high number of planning applications. Also, third parties are concerned over the development being undertaken in breach of planning control and the appellant's conduct through the process, which in has caused disagreement between the appellant and third parties. Although these matters are unfortunate, they do not change my position on the main issues and would not weigh against allowing the appeal.
34. I have considered the other concerns raised by third parties, including harm to biodiversity, the character and appearance of the area, and that the fact the development would result in an overdevelopment of the site. However, these matters do not form part of the Council's case, and I have not been provided with substantive evidence to demonstrate that such harm would arise from the installation of a swimming pool in an existing rear garden area. On the evidence before me, and from

my site observations, I find no conflict in these respects and therefore these concerns do not weigh against the development.

35. The Council did not pursue enforcement action in respect of drainage at the site. However, in determining the 2024 refusal it was noted that drainage details had not been provided, but that the Council considered this matter could be satisfactorily addressed by condition. I have no substantive evidence before me to indicate that the development is currently giving rise to drainage issues, and the appellant contends that a condition on drainage details is unnecessary on this basis, referring to the pool having been professionally installed. The Council does not object to a condition being imposed requiring the drainage details to be agreed.
36. The absence of evidence of harm does not remove the requirement for the development to demonstrate compliance with the development plan. Policy D9(iii) of the Local Plan requires the incorporation of sustainable design principles, including measures for climate change adaptation, which would encompass appropriate consideration of drainage. In the absence of sufficient detail demonstrating how foul and surface water is being managed, it cannot be concluded that the development accords with this policy. Given this, together with the Council's position and the concerns raised, it is reasonable and necessary to impose a condition requiring the approval of these details to ensure compliance with the development plan policy.

Conditions

37. The Council has not submitted suggested conditions, were I minded to allow the appeal. I have considered whether any conditions should be applied to the retrospective permission based on the advice in the Framework and Planning Practice Guidance (the PPG).
38. As the development already exists, there is no requirement to set a time frame for its implementation or a set of plans setting out what has been approved and can be carried out. A condition is, however, imposed to ensure that the foul and surface water drainage details are submitted, agreed and completed along with its management. This condition ensures the development satisfactorily disposes of foul and surface water associated with the development.
39. The appellant requested additional time to satisfy the drainage condition due to the need to undertake infiltration tests over the winter, as well as to give the Council time to discharge the details. I have had regard to this when setting out the timetable for the condition. I have extended the time frame to incorporate the winter months for infiltration tests, but I have not extended the timeframe for the Council to decide on the details. This is unnecessary as the condition is worded in such a way that if the Council fails to give a decision on this matter within the prescribed period the appellant would be able to appeal non determination of the application.
40. There is a timetable for compliance because permission granted is retrospective. In these circumstances, it is not possible to use a negatively worded condition to secure the approval and implementation of these matters before the development takes place. The wording of the condition ensures that the development can be enforced against if the required details are not submitted for approval within the period given by the condition, or if the details are not approved by the local planning authority or the Secretary of State on appeal, or if the details are approved but not completed in accordance with an approved timetable.

Conclusion

41. For the reasons given above, the appeal succeeds on ground (a), and I shall grant planning permission for the development as described in the enforcement notice. The enforcement notice will be quashed, and in these circumstances the appeal on ground (g) does not fall to be considered.

Formal Decision

42. The appeal is allowed, the enforcement notice is quashed, and planning permission is granted on the application deemed to have been made under section 177(5) of the 1990 Act (as amended) for the development already carried out, namely the installation of a swimming pool at land at Hainault Hall, Lambourne Road, Chigwell, Essex IG7 6JU as shown on the plan attached to the Notice and subject to the following condition:

1) The swimming pool hereby permitted and the waste materials resulting from the breaking up of its base and walls, removing the fibre glass shell, the pump and filter system as well as the surrounding coping shall be removed from the Land within three months of the date of failure to meet any one of the requirements set out in parts i) to iv) below:

a) Within 9 months of the date of this decision, details of a scheme for the disposal of foul and surface water from the development shall be submitted to and approved in writing by the local planning authority. The scheme shall include a timetable for the completion of the drainage system and details of its long-term maintenance and management for the lifetime of the development.

ii) If, within 14 months of the date of this decision, the local planning authority refuses to approve the scheme or fails to give a decision within the prescribed period, an appeal shall have been made to the Secretary of State.

iii) If an appeal is made in pursuance of ii) above, that appeal shall have been finally determined, and the submitted scheme shall have been approved by the Secretary of State.

iv) The approved scheme shall have been carried out and completed in accordance with the approved timetable.

Upon implementation and completion of the approved foul and surface water drainage scheme specified in this condition, that scheme shall thereafter be managed and maintained as agreed.

In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.

M. P. Howell

INSPECTOR