

Supporting Statement

Section 78 Town and Country Planning Act

Application for certificate of lawfulness for the erection of a proposed replacement dwelling and relocation of existing swimming pool

The Hollies, Rectory Road, Orsett

March 2024



ARCADIA
PLANNING & DEVELOPMENT



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- Appendix 1 Decision Notice
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Document Details

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1 Introduction

- 1.1 This Supporting Statement has been prepared by Arcadia Planning & Development on behalf of Mr and Mrs Watts, the applicants, in relation to approved planning permission DC/23/02710.
- 1.2 Planning permission was granted for “Proposed replacement dwelling and relocation of existing swimming pool”. The planning permission was approved by Thurrock Council on 20 February 2022, granted subject to nine conditions.
- 1.3 A copy of the Decision Notice is attached in Appendix 1.
- 1.4 This document provides supporting information to assist in the determination of the Certificate of Existing Lawful Development including details of the proposed development, the proposed application site, the current planning law context and how the development meets these requirements.
- 1.5 In accordance with section 191 of the Town and Country Planning Act 1991 the applicant wishes to ascertain confirmation from the Local Planning Authority that the operations carried out in, on, over or under land are lawfully sufficient to be considered commencement of the planning permission.



2 Relevant Planning History

2.1 The following applications have been made relating to the application site or relevant development in the immediate locality.

Application Reference	Description	Decision
83/00701/FUL	Two houses and garages including private drive access. (Full reference THU/701/83-LB/THU/16/83)	Permitted
85/00714/OUT	3 houses and 3 garages.	Refused
05/00826/OUT	Demolition of existing property and erection of 2 detached dwellings with garages.	Withdrawn
06/01147/LDC	Use of the land edged red on plan 656.102 as residential garden to the property known as The Hollies for more than ten years	Permitted
22/00614/FUL	Proposed replacement dwelling and relocation of existing swimming pool	Withdrawn
22/01241/FUL	Proposed replacement dwelling and relocation of existing swimming pool	Permitted
23/00670/CONDC	Application for the approval of details reserved by condition nos. 3 (Details of Materials) and 5 (Construction Management Plan) of planning permission ref. 22/01241/FUL [Proposed replacement dwelling and relocation of existing swimming pool].	Permitted



3 Commencement of Development

3.1 To accord with condition 1 of Planning Permission DC/23/02710 the development must have commenced 20th February 2026 for it to be considered lawfully implemented.

3.2 In order to lawfully commence development it is necessary to satisfy the legal requirements in section 56(4) of the Town and Country Planning Act 1990. This states “*development is taken to be begun on the earliest date on which a material operation is carried out*”. The definition of what constitutes a ‘material operation’ is clarified in The Act and can include any works of construction, demolition, digging foundations, drainage, laying out or constructing a road and a material change in the use of the land. Section 56 states:

56 *Time when development begun.*

1. *Subject to the following provisions of this section, for the purposes of this Act development of land shall be taken to be initiated-*

(a) *if the development consists of the carrying out of operations, at the time when those operations are begun;*

(b) *if the development consists of a change in use, at the time when the new use is instituted;*

(c) *if the development consists both of the carrying out of operations and of a change in use, at the earlier of the times mentioned in paragraphs (a) and (b).*

2. *For the purposes of the provisions of this Part mentioned in subsection (3) development shall be taken to be begun on the earliest date on which any material operation comprised in the development begins to be carried out.*

3. *The provisions referred to in subsection (2) are sections [F¹61L(5) and (7),] [F²70D,] 85(2), 86(6), 87(4), [F³89], [F⁴90B,] 91, 92, [F⁵93H,] [F⁶94 and 108(3E)(c)(i)] [F⁷and paragraph 13 of Schedule 7A].*

4. *In subsection (2) “material operation” means—*

(a) *any work of construction in the course of the erection of a building;*

[F⁸(aa) any work of demolition of a building;]

(b) *the digging of a trench which is to contain the foundations, or part of the foundations, of a building;*



(c) the laying of any underground main or pipe to the foundations, or part of the foundations, of a building or to any such trench as is mentioned in paragraph (b);

(d) any operation in the course of laying out or constructing a road or part of a road;

(e) any change in the use of any land which constitutes material development.

5. *In subsection (4)(e) “material development” means any development other than –*

(a) Development for which planning permission is granted by general development order [^{F9}, a local development order or a Mayoral development order] for the time being in force and which is carried out so as to comply with any condition or limitation subject to which planning permission is so granted;

(b) development of a class specified in paragraph 1 or 2 of Schedule 3;] and

(c) Development of any class prescribed for the purposes of this subsection.

6. *In subsection (5) “general development order” means a development order (within the meaning of section 59) made as a general order applicable (subject to such exceptions as may be specified in it) to all land in England and Wales.*

3.3 The approved development was commenced prior to the expiration of the planning permission on 20th February 2026. Condition 1 requires that the development is commenced within three years of grant of permission. Works to begin the development were start on 21st January 2024.

3.4 All pre-commencement conditions have been discharged. Conditions 3 and 5 required further information to be submitted for approval by the local planning authority prior to the commencement of development. As noted above, these details were submitted under application reference 23/00670/CONDC and approved on 1st August 2023. Two conditions remaining outstanding, however the requirement for these submissions is ‘prior to development above lab level’ and ‘prior to occupation’. No pre-commencement conditions remain outstanding.

3.5 The physical works conducted at the site comprise the laying of a section of the foul drainage pipework system to the foundations of the dwelling approved under the planning permission. Such works satisfy the requirements set out in section 56(4) of the Town and County Planning Act 1990. Photo evidence is attached at Appendix 2.



3.6 The body of evidence provided demonstrates the material start to the development has taken place, and therefore lawful. Supporting information includes photographs of the works undertaken and confirmation of site inspection by the Building Control Inspector. Together these confirm that the development was implemented prior to the expiration of the planning permission on 20th February 2026.



4 Conclusion

- 4.1 It is trusted that the information contained within this statement and the supporting evidence demonstrates that on the balance of probabilities the development on the land in the planning permission reference DC/23/02710 has commenced, and the applicant has complied with Condition 1 of the planning permission. As such it is requested that the local authority support this application for a Certificate of Lawful Existing Development.



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