



Planning Inspectorate

Appeal Ref: APP/P3040/C/26/3378910

Riverside Farm, Fairham Brook Lane, Bunny, Nottingham, NG11 6SQ

The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended) by Riverside Farm JK against an enforcement notice issued by Rushcliffe Borough Council on 4 February 2026.

POST-CASE MANAGEMENT CONFERENCE NOTE

1. A case management conference (CMC) was held at 11:00am on Monday 21 September 2026 in respect of the above-mentioned appeal and in preparation for the forthcoming public inquiry to commence on 3 November 2026.
2. The purpose of this note and the CMC was to assist all in focusing on the main issues; clarifying the evidence to be submitted to the inquiry; and to reduce the inquiry time to that which is strictly necessary. There was no discussion at the CMC about the merits of the parties' respective cases and no evidence was presented.
3. I would ask that the Council pass on a copy of this note to any interested party for their information.

The Notice

4. In my previous note and at the CMC, I advised the parties of my duty to put the notice in order, if necessary, before considering the grounds of appeal.
5. My concerns regarding the notice are, in short:
 - That the description of the alleged breach of planning control includes reference to further works that have not yet occurred. As such, I am concerned that the power to issue a notice under section 172(1)(a) of The Town and Country Planning Act 1990 as amended (the 1990 Act) does not extend to such matters;
 - That there are inconsistencies with regard to how the matter that is the target of the notice is referred to; and
 - The Council confirmed at the CMC that the purpose of the notice falls within that specified in section 173(4)(a) of the 1990 Act, which is to remedy the breach. Therefore, whether requirement 5.3. exceeds this purpose.

6. The parties indicated at the CMC that they had understood these concerns. Accordingly, I would ask that the parties evidence address the following:
 - Whether or not the above matters render the notice defective;
 - If so, whether or not the notice can be corrected;
 - What that correction might be; and
 - Whether or not any correction would cause injustice to any party.
7. In addition to this duty, I sought clarification from the appellant on their case regarding the validity of the notice. This is set out in the appellant's email of 9 July 2026. I have asked that the case officer pass on a copy of this email to the Council.
8. In my last note I summarised what I understood to be the appellant's case set out in this email, which is that evidence the Council relies on in this appeal did not exist at the time the notice was issued. The appellant agreed at the CMC that I understood what was suggested in their email. As such, I ask that, **no later than 25 September 2026**, the appellant provide to both the Council and to me, via the case officer, a list of the Council's evidence they refer to along with a brief explanation as to why they say this evidence renders the notice a nullity.
9. I would then ask that the parties' proof of evidence respond to this matter, addressing the following:
 - Whether or not these matters render the notice defective;
 - If so, whether or not the notice can be corrected;
 - What that correction might be; and
 - Whether or not any correction would cause injustice to any party.
10. In addition to the above, at the CMC the appellant suggested that the copy of the enforcement notice enclosed with the Council's completed appeal questionnaire was not the same as the copy of the enforcement notice submitted with the appellant's appeal. It was clarified at the CMC that the copy of the enforcement notice I have on the file, submitted with the appeal, is the same as that submitted with the appeal questionnaire. It has the same date and the same contents. Also, that the plan attached to each copy was the same and is shown below, which is the extract of the plan attached to the notice submitted by the appellant with the appeal:



11. Following this, both parties agreed at the CMC that the Enforcement notice subject of the appeal, including the plan shown above, is that submitted by the appellant with their appeal, and dated 4 February 2026.
12. On a separate point, the appellant raised a concern with regard to the Council's appeal notification letter, dated 8 April 2026, pointing out that this refers to a notice issued on 10 February 2026, which differs from the date of the notice, which is 4 February 2026.
13. Rule 5(1) of The Town and Country Planning (Enforcement) (Written Representations Procedure) (England) Regulations 2002 requires the local planning authority to give written notice of an appeal to certain individuals, including interested parties. Rule 5(2) sets out what that notification must contain. The date of issue of the enforcement notice is not a matter listed in Rule 5(2).
14. The 8 April 2026 letter (i.e. the appeal notification letter) appears to contain all of those matters listed at Rule 5(2). This includes the appeal reference number for this appeal and the particulars of the enforcement notice that is the subject of this appeal.
15. The letter is dated outside of the 2 week period specified in Rule 5(2). Nevertheless, it otherwise complies with Rule 5 and I note that interested party representations have been received as a result of this.
16. Whilst the appeal procedure has change since the date of this letter, similar notification Rules apply under The Town and Country Planning (Enforcement) (Inquiries Procedure) (England) Rules 2002.
17. Whilst I do not make any finding on this procedural matter at this stage, I see no reason to interrupt the ongoing appeal timetable.

The Grounds of Appeal

18. The appeal will proceed on the grounds set out in section 174(2) (a), (b), (c), (e) and (f) of the 1990 Act.

Ground (e)

19. An appeal on ground (e) is that copies of the enforcement notice were not served as required by section 172 of the 1990 Act.
20. At the CMC the appellant clarified that their case under ground (e), which is, if I have understood this correctly, that Alexandra Victoria Geary is the owner of the land and she was not served with a copy of the notice, as required.
21. In addition to the above, at the CMC the appellant also referred to inconsistencies in certain of the Council's correspondence. I made a note of the dates 21 December 2023, 4 February 2026 and 10 February 2026 as the correspondence referred to by the appellant. I was unable to clarify the relevance of this to a ground (e) appeal.
22. Accordingly, at this stage I have only been able to identify the following main considerations under the ground (e) appeal:
- Whether or not the Council failed to comply with section 172(2) of the 1990 Act with regard to Alexandra Victoria Geary; and
 - If so, whether or not this person has been substantially prejudiced by the failure to serve the notice on them.

Ground (b)

23. An appeal on ground (b) is that the matters alleged in the enforcement notice, which appears to the Council to constitute the breach of planning control, have not occurred. I would emphasise here that my consideration of the ground (b) appeal is only in respect of the matters stated in the enforcement notice that is the subject of this appeal. It is not in respect of matters stated elsewhere in other correspondence. In order to succeed on this ground, the appellant must demonstrate that the matters stated in the enforcement notice have not occurred.
24. The appellant clarified at the CMC that they do not dispute that a structure has been erected. Their case is that the dimensions of the structure are not as specified in the notice.
25. In addition to this, and despite having clarified what can be considered under the ground (b) appeal, the appellant persisted with their claim that a replacement dwelling has not been erected, which they say is alleged in correspondence.

26. Having regard to the above, I have identified what might be the main considerations under ground (b) as follows:

With regard to the appellant's first claim (i.e. the dimensions specified):

- Whether or not the structure erected is of the dimensions specified in the enforcement notice;
- If not, whether this is an error in the enforcement notice and whether that makes the notice invalid;
- Whether the notice can be corrected;
- What that correction might be; and
- Whether injustice would be caused to any party if the notice were to be corrected.

And with regard to the second part of the appellant's ground (b) case (i.e. replacement dwelling):

- Whether or not reference to a replacement dwelling in correspondence outside of the enforcement notice means that the matters alleged in the enforcement notice have not occurred.

27. I would ask that the parties' proof of evidence consider these matters under ground (b).

28. I would remind the parties that the onus of proof is on the appellant and the test of the evidence is on the balance of probabilities.

Ground (c)

29. A ground (c) appeal is that the matters alleged in the notice do not constitute a breach of planning control. At the CMC I explained that this usually means a consideration of whether or not the matter is development as defined by section 55(1) of the 1990 Act and/or whether planning permission has been granted for the matter.

30. At the CMC I asked the appellant whether or not they agree that what is alleged in the notice is development as defined by section 55(1), and that planning permission is required for it by reason of section 57(1). The appellant responded to say that the structure is not development, but then went on to refer to the permission granted for development by reason of The Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (the 2015 Order).

31. I have taken this to mean that the appellant does not suggest that the matter that is the subject of the enforcement notice is not development, but that their case is that it is development that has the benefit of permission granted by the 2015 Order. If this is not the case, I would ask

the appellant to set out in their proof of evidence why they say that what is alleged is not development.

32. Notwithstanding the above, the parties agreed that the permission granted by reason of Classes A and B of Part 6, Article 3, Schedule 2 of the 2015 Order is not relevant in this case.
33. Accordingly, the main considerations under the ground (c) appeal are as follows:

With regard to Class E of Part 6:

- Whether or not the structure would benefit from the permission granted by reason of Class E, including whether or not the structure is on land used for the purposes of forestry, including afforestation, and is development reasonably necessary for those purposes;
- If so, whether or not an application was validly made to the Council for its prior approval, in accordance with condition E.2.(1) of Class E;
- If so, whether the Council's failure to determine the application means that prior approval and, therefore, planning permission is granted for what was shown on the plans submitted with the application by reason of Class E; and
- If so, whether the structure that is the subject of the notice accords with the permission granted by reason of Class E.

Other Considerations:

- Whether or not permission has otherwise been granted for the structure.

34. I would ask that the parties' proof of evidence consider these matters under ground (c).
35. I would remind the parties that the onus of proof is on the appellant and the test of the evidence is on the balance of probabilities.

Ground (a)

36. The ground (a) appeal is made on the basis that planning permission should be granted for what is alleged in the notice.
37. At the CMC the parties agreed with the main issues I set out in my previous note. The Council also raised two additional main issues at the CMC. These were flooding and intentional unauthorised development. I would ask that the Council set out in a brief note its case in respect of these matters to be submitted to the Inspectorate and the appellant **no later than Friday 25 September 2026**.
38. In view of the above, the main issues under the ground (a) appeal are:
 - The effect of the structure on the character and appearance of the area, including the effect on the significance of Bunny Hall, a Grade I Listed Building;

- Whether or not the location of the structure is acceptable, having regard to flooding;
 - Whether or not the unauthorised development was intentional, such that substantial weight should be given in considering whether to grant planning permission, in accordance with the provisions of paragraph 2 of Policy DM8 (Unauthorised development and enforcement) of the National Planning Policy Framework (the Framework);
 - Whether or not the structure is inappropriate development in the Green Belt having regard to the Framework and relevant development plan policies;
 - If so, the effect of the structure on the openness and purposes of the Green Belt and whether other considerations clearly outweigh any harm to the Green Belt and any other harm so as to amount to very special circumstances;
39. The appellant also raised the matter of the relevance of the previous appeal decision relating to an enforcement notice issued in respect of another structure on the site.
40. I would ask that the parties' proof of evidence consider these matters under ground (a).

Ground (f)

41. The Council confirmed that the purpose of the notice is to remedy the breach. The main consideration under the ground (f) appeal is, therefore, whether or not the steps required by the notice to be taken, or the activities required by the notice to cease, exceed what is necessary to remedy the breach of planning control.

Witnesses and Inquiry Timetable

42. I would remind the parties to complete the inquiry timetable form and email this to the case officer no later than **Friday 25 September 2026**.
43. These should set out certain important details, including the parties' representative, the number of witnesses each party wishes to call, the time needed for each to give evidence and the time needed for the cross examination of the other party's witnesses. You will need to work collaboratively to complete these forms.
44. As noted in my Pre-CMC note, before asking each witness to commence giving evidence at the inquiry, I will ask them to take the oath or affirm. Witnesses should ensure that they have the appropriate Holy Book in their possession if they wish to take the oath.
45. If it is the case that Dr Geary will both represent the appellant and be a witness for the appellant, the normal procedure would be for her to take the oath or affirm prior to making opening submissions. When giving evidence, she may set out any pertinent points from her evidence before

being asked cross examination questions from the Council's representative and questions from me.

46. I intend to hold the round table session on the matter of the notice at the start of the inquiry, before I hear opening submissions. I also intend to hold a round table discussion regarding conditions after I have heard all formal evidence.
47. The parties indicated that they are available on **4 November 2026** for a second day of face to face sitting, if this is necessary. I also hope to carry out the site visit on this second day.
48. The parties agreed that closing submissions and any costs applications can be heard virtually, following the completion of formal evidence and the site visit. The Council confirmed that it is able to make the necessary arrangements for the virtual sitting session. I intend to hold this session at **10 am on Friday 6 November 2026**.

Venue Arrangements

49. The Council mentioned the details for the venue for both the 3 and 4 November 2026 at the CMC. If the Council has not already done so, I would be grateful if this could be confirmed in writing.
50. I made a note of the availability of a retiring room for me at the venue, parking arrangements and Wi-Fi access.

The Evidence

Proofs of Evidence and Appendices

51. I would ask that all witnesses to be called to the inquiry provide a proof of evidence in which they set out the evidence they intend to talk to at the inquiry.
52. I would ask that the evidence identify the policies and guidance that are relevant to the main issues and to my determination of the appeal. The evidence should explain the relevance of these policies and guidance, and take me to the particular part of the relevant policies and guidance that are relied upon.
53. As I confirmed at the CMC, the proofs should not contain any new evidence in addition to that set out in the parties' previous submissions (i.e. those submissions that have been accepted by the Planning Inspectorate).
54. I have noted the documentary evidence already submitted and accepted by the Planning Inspectorate. There is no need to resubmit this with the proofs of evidence. The proofs of evidence should not be submitted with any new documentary evidence.

55. The proofs of evidence should be submitted to the Planning Inspectorate no later than **6 October 2026**.
56. I would again request that, where there is dispute between the parties with regard to the legitimacy of certain documents, the parties must bring to the inquiry the original version of that document.

Statement of Common Ground

57. The parties should work together to prepare a comprehensive statement of common ground. The purpose of this is to focus on the matters that are in dispute between the parties and the matters that are agreed. I would suggest the parties start by considering the main considerations and issues I have identified above.
58. In addition to any agreed matters, it would be helpful if the parties could identify the matters that are relevant in this case. Each party could then summarise their respective position on each of these matters. Again, this will assist in focusing on the main areas of dispute.
59. The statement of common ground should include a list of suggested conditions, in the event that I conclude that planning permission ought to be granted. The parties can indicate which conditions are agreed. If not agreed, the statement can identify the matters in dispute on each condition and suggest any alternative wording.
60. The statement of common ground must be submitted with the proofs of evidence on **6 October 2026**.

Costs

61. Parties in planning appeals normally meet their own expenses. However, the Planning Practice Guidance on Appeals (the PPG) advises that costs may be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.
62. I have noted the application for costs already made by the appellant. I intend to give the appellant the opportunity to review this at the inquiry. The Council also indicated that it may make a costs application.
63. The matter of costs, including the response to the costs application made, will be dealt with at the end of the inquiry, at the virtual session. Any further costs applications should either be made in writing before the date of the inquiry or before the close of the inquiry.
64. You are also reminded that in order to support an effective and timely planning system in which all parties are required to behave reasonably, an Inspector has the power to initiate an award of costs in line with the PPG. Unreasonable behaviour may include not complying with the prescribed timetables.

Final Timings

65. I would ask that, following the submission of proofs of evidence, the parties review their respective inquiry timetable form and update these, where necessary. This update should be submitted no later than **20 October 2026**.
66. Other than in exceptional circumstances, you are expected to take no longer than the timings indicated, which will require the cooperation of all advocates and witnesses.

Opening Statements

67. Please provide a hard copy of any opening statements, to be handed out to the inquiry before they are made.
68. Opening statements should be no more than 15 minutes.

Inquiry Notification

69. The Council is to make sure the inquiry notification letter is sent no later than 2 weeks prior to the opening of the inquiry. A copy of the letter, along with a list of those notified is to be sent to the Planning Inspectorate no later than **20 October 2026**.

J Moss

22 September 2026

INSPECTOR

Annex 1

Summary of timetable:

25 September 2026	Deadline for the submission of: • An explanation from the appellant as to why they say some of the Council's evidence renders the notice a nullity, along with a list of that evidence. • A brief note from the Council setting out their case on ground (a) in respect of flooding and intentional unauthorised development, and • The completed inquiry timetable form from both parties.
6 October 2026	Deadline for submission of: • All proofs of evidence • Statement of common ground
20 October 2026	Deadline for submission of: • The inquiry notification letter • Final timings
3 November 2026	Inquiry opens 10.00 am A second day face to face sitting to be held on 4 November 2026.
6 November 2026	Virtual Inquiry session to hear closing submissions and any costs applications.