RUSHCLIFFE BOROUGH COUNCIL

APPEAL BY DR JULITA GEARY UNDER SECTION 174 OF THE TOWN AND COUNTRY PLANNING ACT 1990 (as amended) AGAINST THE DECISION OF RUSHCLIFFE BOROUGH COUNCIL TO ISSUE A PLANNING ENFORCEMENT NOTICE RELATING TO THE ERECTION OF AN UNAUTHORISED BUILDING.

Riverside Farm

Fairham Brook Lane

Bunny

Nottingham

NG11 6SQ

STATEMENT OF THE LOCAL PLANNING AUTHORITY

Planning Inspectorate Reference: 6005948

Local Planning Authority Reference: 23/00034/BUILD

Introduction

1.1 The appeal by Dr Julita Geary is against the decision of Rushcliffe Borough Council (the Council) to issue a planning enforcement notice relating to the erection of an unauthorised building on the land which has previously been described as an ‘agricultural processing building’ or ‘forestry building’. The building in question consists of a timber framed pitched roof section and includes a porch area and what is clearly a recycled domestic uPVC and double glassed conservatory which the appellant has variously described as an “agricultural glasshouse” or more recently as a “solar kiln”.

1.2 The council was made aware of the unauthorised building in late October of 2024. At that point an appeal against a previous enforcement notice (in relation to a separate building) had been with the inspectorate for some 10 months and the council did not wish to delay a decision on that appeal by serving further enforcement notices which might find themselves combined. Further survey of the building subject of the current appeal was undertaken when visiting the site alongside the Planning Inspector in connection with a previous appeal (Planning Inspectorate ref: APP/P3040/C/21/3284007) in May of 2025.

1.3 The council considers that the building does not have the benefit of planning permission or permitted development rights via prior approval and is unacceptable due to its setting within the Green Belt and has an overtly domestic character as a consequence of the reused domestic conservatory incorporated at its southeast end. The absence of an agricultural character would make it unlikely that planning permission, or prior approval, would have been granted had any application been made, and the building also has adverse impacts on the setting of a nearby Grade I listed building in the form of Bunny Hall.

1.4 Whilst agricultural development is not 'inappropriate' within the greenbelt the Borough Council is not satisfied that there is a functional need to justify the building, and if such a justification does exist nothing to justify a building of this scale or of this design and character has been provided to the Council. Due to the reasons set out above the development is not in accordance with the following policies;

- Chapter 12 'Achieving well designed places' of the National Planning Policy Framework.
- Chapter 13 'Protecting Green Belt Land' of the National Planning Policy Framework.
- Chapter 16 'Conserving and enhancing the historic environment' of the National Planning Policy Framework.
- Policy 1 (Development Requirements) of the Rushcliffe Local Plan Part 2: Land and Planning Policies.

- Policy 4 (Nottingham-Derby Green Belt) of the Rushcliffe Local Plan Part 1: Core Strategy.

- Policy 21 (Green Belt) of the Rushcliffe Local Plan Part 2: Land and Planning Policies.

- Policy 28 (Conserving and enhancing heritage assets) of the Rushcliffe Local Plan Part 2: Land and Planning Policies

1.5 The Council has, before the submission of this appeal, made clear on several occasions to the appellant that documents which they have presented are considered to be disputed by the Council and that these documents do not satisfy us that a deemed consent exists arising from a December 2023 prior approval application, or that a rental agreement as presented proves a holding in excess of 5 hectares. The Council had hoped that the appellant, being aware that we raised concerns around the legitimacy of documents, that the appellant might choose not to risk making an appeal on the basis of those documents. Whilst the council has been careful not to reveal why it has reservations over the documents so as to preserve our case, and the appellant has never asked us to elaborate prior to making their appeal, the Council wishes to make clear that it has not advised nor compelled the appellant to make this appeal, or to base it upon the evidence which they have chosen to submit. We are now obliged to address in detail, not the planning merits of a case, but the *reality* of a case as it has been presented by the appellant, particularly in relation to grounds B and C. This is not a usual situation for the Council to find itself in, nor one we would have wished to play out in the public forum of an appeal process, but we have little alternative.

Site and Surroundings

2.1 The site refers to land 323m East Of A60 Junction With Fairham Brook Lane, Bunny with the boundaries of the field defined by mature trees and hedgerows. The surrounding area can be classified as predominately agricultural with the land laying within the open countryside. It is noted that the site also lies within the Green Belt and adjacent to the Bunny Conservation Area.

2.2 Approximately 210m northwest of the site is a Grade II listed feature known as 'Small Tomb Chest'. The features is described as 'Tomb chest to 2 dogs.c.1840. Ashlar and slate. Small square ashlar tomb chest set onto a shallow plinth with recessed panels to front and right. Moulded top with shallow pediments to front and rear. The recessed panels to contain single slate tablets which are adjacent to the tomb and have inscriptions'.

2.3 Approximately 205m northwest of the site is the 'Sundial' which is a Grade II listed feature 50m south of Bunny Hall. The Sundial is a 'late C18. Ashlar and copper. Octagonal ashlar platform surmounted by the moulded octagonal base of the octagonal ashlar shaft with moulded cap topped with copper sundial'.

2.4 Approximately 250m northwest of the building is the curtilage of the listed building known as 'Bunny Hall'. The building is Grade I listed and is a large country house which was rebuilt in 1720 by Sir Thomas Parkyns of Bunny Hall.

Relevant Site History

3.1 A prior-approval application for an agricultural notification for the erection of a crossing of Fairham Brook at Bunny Park (reference: 22/02001/AGRIC) was submitted in October 2022. The Council confirmed that Prior Approval was not required, subject to conditions, for the proposal and the development has since been implemented, initially in breach of conditions however those matters have since been resolved.

3.2 In late November and early December 2023 two prior-approval applications for agricultural notification were submitted to The Council. One of the submissions proposed the 'creation of hardstanding area of 450 metres' (received November 16th 2023 – invalid until fee shortfall addressed on 4th December 2023) reference: 23/02098/AGRIC) and the other proposed an access track (received December 7th 2023 - 23/02353/AGRIC). The applications were subsequently returned to the applicant as The Council considered that, there was no requirement to submit an agricultural notification under Class B, Part 6, Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order (as amended) for the proposed developments. The Borough Council advised that if the applicant wanted to enquire as to whether the proposal would fall within the criteria of permitted development under Class B, Part 6, Schedule 2, then they would need to submit a Certificate of Lawful Use application. No such application was ever submitted.

3.3 On 21 December 2023 the council issued an Enforcement Notice in relation to the construction of the unauthorised structure which the appellant described as a health and safety shelter, or welfare shelter, for agricultural workers. The appellant appealed against this notice on the basis that it was a caravan and did not represent operational development, but that if it did need planning permission such permission should be granted. The appeal was also brought on the ground that the notice was incorrectly served as the council had failed to serve notice on a party with an interest in the land which the appellant had failed to disclose in a PCN response. The appeal was dismissed (Planning Inspectorate ref: APP/P3040/C/21/3284007). The Council did seek an award of costs on the basis that the appellant had sought to engineer a ground of appeal by failing to provide a complete and accurate response to the PCN, however that costs claim was dismissed; giving the appellant the benefit of the doubt that they had more likely made an honest error than sought to deliberately deceive. The upheld notice required removal of the building from the land by no

later than 8th March 2026. The requirements of the notice have not been complied with and the building remains in situ as of the date of this submission.

3.4 In late October 2024 work commenced to construct the building subject of this current appeal, the work was apparently being undertaken by the appellants husband and co-director of Riverside Farm JK Ltd Mr Keith Geary using a variety of ladders and small handtools.

Grounds of Appeal

Ground A

4.1 An appeal has been made under ground (A) in which the appellant has alleged that planning permission should be granted for what is alleged in the notice (or that the condition or limitation referred to in the enforcement notice should be removed).

4.2 In line with planning law, decisions should be made in accordance with the Rushcliffe Development Plan unless material considerations indicate otherwise. The relevant statutory policies that comprise the Development Plan for Rushcliffe consist of the adopted Local Plan Part 1: Core Strategy (2014) and the Local Plan Part 2: Land and Planning Policies (2019).

Relevant National Policies and Legislation

4.3 The relevant national policy considerations for this proposal are those contained within the National Planning Policy Framework (NPPF) and the proposal should be considered within the context of a presumption in favour of sustainable development as a core principle of the NPPF.

4.4 The NPPF includes a presumption in favour of sustainable development. Local planning authorities should approach decisions on proposed development in a positive and creative way and work proactively with applicants to secure developments that will improve the economic, social and environmental conditions of the area. In assessing and determining development proposals, local planning authorities should apply the presumption in favour of sustainable development. Decision-makers at every level should seek to approve applications for sustainable development where possible.

4.5 Achieving sustainable development means that the planning system has three overarching objectives, an economic objective, a social objective and an environmental objective, which are interdependent and need to be pursued in mutually supportive ways, so that opportunities can be taken to secure net gains across each of the different objectives.

4.6 As such, the following sections in the NPPF with regard to achieving sustainable are considered most relevant to this planning application:

- Chapter 2 - Achieving Sustainable Development

- Chapter 5 - Delivering a sufficient supply of homes
- Chapter 12 - Achieving Well Designed Places
- Chapter 13 – Protecting Green Belt land
- Chapter 14 - Meeting the Challenge of Climate Change, Flooding and Coastal Change
- Chapter 15 - Conserving and Enhancing the Natural Environment

4.7 In addition the development is in close proximity with, and is visible from, a grade I listed building, engaging the statutory duty under section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

Relevant Local Plan Policies

4.8 The following policies of the Rushcliffe Local Plan Part 1: Core Strategy are considered to be relevant to the current proposal:

- Policy 1 - Presumption in Favour of Sustainable Development
- Policy 2 - Climate Change
- Policy 3- Spatial Strategy
- Policy 4 – Nottingham-Derby Green Belt
- Policy 10 - Design and Enhancing Local Identity
- Policy 11 – Historic Environment
- Policy 17 – Biodiversity

4.9 The following policies of the Rushcliffe Local Plan Part 2: Land and Planning Policies (LPP2) are considered to be relevant to the current proposal:

- Policy 1 - Development Requirements
- Policy 17 - Managing Flood Risk
- Policy 18 - Surface Water Management
- Policy 19 - Development affecting Watercourses
- Policy 20 - Managing Water Quality
- Policy 21 – Green Belt
- Policy 28 – Conserving and Enhancing Heritage Assets
- Policy 37 - Trees and Woodlands
- Policy 38 - Non-designated Biodiversity Assets and the Wider Ecological Network

4.9 The Rushcliffe Design Code has been adopted and forms a material consideration for the current appeal.

ASSESSMENT

4.10 The main considerations for the Ground A appeal are as follows:

- Whether the development would constitute inappropriate development within the Green Belt

- Grey belt and other tests (Framework paragraph 155(a)-(d))
- The impact of the development on Openness
- Whether there are any 'Very Special Circumstances' to outweigh the potential harm to the Green Belt
- The impact of the development on the Character of the Area and Heritage Assets
- The impact of the development on Flood Risk
- Planning Balance and Conclusion

Whether the development would constitute inappropriate development within the Green Belt

4.11 The appeal site is located within the Green Belt and consists of a modest-sized plot of land measuring approx. 3.48 hectares and is adjacent to a number of agricultural fields within different ownership. The southern end of the site consists of an access bridge. To the north of the site there is the unauthorised 'welfare building' now retained in non-compliance with an enforcement notice, around that building is a variety of domestic paraphernalia within close proximity including a swing set and low scale planting which is the subject of an Enforcement Notice and was dismissed at appeal and a 'forestry' building which includes a conservatory structure which is the subject of this appeal.

4.12 Policy 21 of the Rushcliffe Local Plan Part 2: Land and Planning Policies, dated 2019 (Local Plan) controls development in the Green Belt and this states that Green Belt policy will be determined in accordance with the Framework. Paragraph 142 of the Framework establishes that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and permanence.

4.13 Paragraph 154 of the Framework sets out that the construction of new buildings should be regarded as inappropriate development in the Green Belt, subject to a number of exceptions. The appellant contends that the building is for an agricultural / forestry use and therefore falls under the exception of paragraph 154(a) which has no limiting criteria and applies to buildings for agriculture and forestry. As such, an assessment needs to be made as to whether the building subject to the enforcement notice is used for agricultural purposes on the balance of probability.

4.14 The appellant argues that planning permission should be granted as the development accords with Paragraph 88 of the Framework, however, this is not the sole determining factor and it also must be noted that the complainant has not provided sufficient evidence to demonstrate that a building of this size and scale, and with the domestic design features that it includes, is required in connection with an agricultural/forestry business.

4.15 The definition of agriculture in s336 (1) of the 1990 Act includes fruit growing, seed growing, dairy farming and the keeping and breeding of livestock and the use of land as grazing land, meadow land, osier land, market gardens and nursery grounds. The activities described by the appellant fall within the above

definition of agriculture. However, agricultural use implies trade or business and whilst there is no size, profitability or viability of the business test, the scale of the agricultural use of the site would need to amount to more than 'hobby farming' in order for the building to be considered under an agricultural use for the purposes of exemption a) of paragraph 154 of the NPPF.

4.16 From the site visits undertaken previously, it appears that the site as a whole has small scale operations taking place such as tree growing, planting and hay production. There were no equipment/ tools on the site to indicate an agricultural use. The building subject to this enforcement notice has several domestic features including a conservatory and porch area. Whilst the use of the building is the main consideration for this assessment, the wider activities on the site, the number of operations taking place and the modest size of the plot indicate that the operations on site are of a very limited level and would amount to a recreational or leisure use (i.e. 'hobby farming') rather than the agricultural use for the purposes of assessing exemption a) of paragraph 154 of the NPPF.

4.17 Very limited information has been provided by the appellant to corroborate the assertion that the site and the building is used for agricultural purposes relating to a trade or business. The appellant has provided details from Companies House which confirm that 'Riverside Farm JK Limited' is an active business. The information provided confirms that the business was incorporated into Companies House on 26th May 2022.

4.18 Further, the companies accounts confirm that the number of employees of 'Riverside Farm JK Limited' amounted to 1 employee (including directors). The report confirms there are two directors associated with the business. It also confirms that the 'accruals and deferred income' amounted to £150 as of 31st May 2023 (Appendix A) and the most recent accounts showing 'capital and reserves' of £359 (Appendix B). This information further highlights the limited nature of the agricultural business on the site and casts doubt upon the appellants assertions that the building is used for purposes relating to an agricultural business.

4.19 For these reasons, The Council considers that on the balance of probability, the building subject to the enforcement notice is not used for agricultural purposes associated with a trade or business. The appellant has failed to demonstrate that the building is used for agricultural purposes and, therefore, failed to demonstrate that the building would meet exemption a) of Paragraph 154 of the NPPF. The building would not meet any other exemption within paragraph 154 or 155 of the NPPF.

4.20 When considering the exceptions listed within paragraph 154 of the NPPF, The Council considers that the use of the building would not fall within any other exemptions. The Council therefore considers that the building subject to the enforcement notice would be inappropriate development within the Green Belt. As per paragraph 153 of the NPPF local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. The Council therefore

needs to consider whether any 'very special circumstances' that exist to outweigh the harm caused to the Green Belt by reason of its inappropriateness.

Grey belt and other tests (Framework paragraph 155(a)-(d))

4.21 The Framework defines 'grey belt' as land in the Green Belt comprising previously developed land and/or any other land that, in either case, does not strongly contribute to any of purposes (a), (b), or (d) in paragraph 143, and excludes land where the application of the policies relating to the areas or assets in footnote 7 (other than Green Belt) would provide a strong reason for refusing or restricting development.

4.22 The development is contained within an existing field and would not result in the unrestricted sprawl of large built up areas, the merging of towns, nor affect the setting and special character of historic towns. It is therefore concluded that the site does not strongly contribute to purposes (a), (b) and (d) of paragraph 143 of the Framework. In addition, the proposal would not affect areas or assets in footnote 7 of the Framework (other than Green Belt). It is therefore considered that, in this case, the development would utilise grey belt land.

4.23 Paragraph 155 of the NPPF states that 'the development of homes, commercial and other development in the Green Belt should also not be regarded as inappropriate where:

a) The development would utilise grey belt land and would not fundamentally undermine the purposes (taken together) of the remaining Green Belt across the area of the plan;

b) There is a demonstrable unmet need for the type of development proposed

c) The development would be in a sustainable location, with particular reference to paragraphs 110 and 115 of this Framework; and

d) Where applicable the development proposed meets the 'Golden Rules' requirements set out in paragraphs 156-157 below.'

4.24 It is considered that the building would fall within 'other development' within Paragraph 155 of the NPPF.

4.25 It is considered that the development would not fundamentally undermine the purposes (taken together) of the remaining Green Belt across the area of the plan and therefore would comply with limb a).

4.26 In considering limb b), it is considered that the applicant has failed to demonstrate a demonstrable unmet need for the development and it is therefore considered that the development would not meet this test.

4.27 In considering limb c), the application site is not within close walking distance of the centre of Bunny and is not near public transportation links and it is therefore considered that the future occupants of the site would be heavily reliant on cars for transportation. For these reasons, it is considered that the site is not located within a sustainable location. It is therefore considered that the development would be contrary to this requirement.

4.28 In considering limb d), the proposal is not for major development and therefore the 'Golden rules' do not apply in this instance.

4.29 Therefore when considering paragraph 155 it is considered that the development does not meet the exceptions to inappropriate development.

The impact of the development on Openness

4.30 Openness of the Green Belt has a spatial as well as a visual aspect. 'Open' can mean the absence of development in spatial terms, and it follows that openness can be harmed even when development is not readily visible from the public realm.

4.31 The site has previously been void of built form. It is considered that in both spatial and visual terms the siting of the structure would undoubtedly reduce the openness of the Green Belt and as such would be harmful to openness, one of the essential characteristics of the Green Belt. In accordance with the NPPF substantial weight must be given to this harm.

Whether there are any 'Very Special Circumstances' to outweigh the potential harm to the Green Belt

4.32 Paragraph 153 of the NPPF states that 'Very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.

4.33 The appellant asserts that the structure subject to the enforcement notice is required for the storage of forestry and agricultural machinery and for the storage of firewood and as a tree nursery. The only doors to the building are of domestic scale and not suited for the passage of any machinery or equipment of any significant scale. Nor is apparent that equipment justifying the height of the building could enter it through any of the doors it possesses.

4.34 The site consists of 3.84 hectares and as shown in the council's case later in this statement, the appellants claim that they have an agricultural holding in excess of 5 hectares due to a rental agreement for land at Ash Lane Costock is incorrect, and it has not been demonstrated that the building is required for the use claimed.

4.35 Notwithstanding The Councils position regarding the use of the building, no information has been submitted confirming the feasibility of providing the building in a different location (outside of the Green Belt), or smaller facilities which would reduce the harm caused to the Green Belt by virtue of its inappropriateness and undoubted harm to its openness. It has therefore not been demonstrated that alternative facilities could be provided to avoid the harm to the Green Belt caused by the siting of the building in this location.

4.36 The development subject to the enforcement notice is therefore considered inappropriate development within the Green Belt and, as per paragraph 153 of the NPPF, substantial weight should be given to this harm within the planning balance. Due to the reasons outlined above, The Council considers that the circumstances presented in this case would not amount to very special circumstances to clearly outweigh the harm caused to the Green Belt by reason of inappropriateness. Any other harm resulting from the proposal will be considered below.

The impact of the development on the Character of the Area and Heritage Assets

4.37 The appeal site is land formerly part of the Bunny Hall Estate and formed part of its parkland, until recently it remained in the same ownership of Bunny Hall (Grade I listed) until the previous owner sold the house and parcels of accompanying land as separate plots. Dr and Mr Geary are the first owners of the appeal land who have not also been owners of Bunny Hall.

4.38 Bunny Hall in its present form effectively has two sets of principal spatial relationships with its context. It has an association with an expansive collection of former service buildings to its north, most of which have subsequently been converted to dwellings and several of which are separately listed at lower grades in their own right, this ‘functional’ relationship extends as far as the former walled garden some 200 metres to the northeast of the hall beyond its sprawling outbuilding complex.

4.39 The principal rooms of the hall face out to the south, across the driveway of the hall and its formal gardens and parkland beyond. The main approach route to the hall has always been form the south, with a pedestrian route from the east that would have given more direct access to the parish church and a more functional route in through the outbuilding complex to the north. The southern driveway has been re-routed such that it now joins Main Street further north than it did historically, the sweeping driveway used to historically pass through the appeal site, indeed it would have cut directly through the location in which the welfare building has been constructed (see overlaid historical map/ modern aerial photography extract overleaf).



4.40 Until their works began the land continued to feature in views out from the principal rooms along the southern elevation of the hall where there is a visual transition between formal gardens and park-like estate land beyond which forms the setting of the Grade I listed building.

4.41 The building is positioned towards the northern boundary of the land, close to Bunny Hall. No effort has been made in terms of siting, scale, finish or orientation to reduce or avoid adverse impact upon the significance of Bunny Hall as contributed to by its setting.

4.42 The council does not agree that the design and siting of the building has been sensitive with respect to the historic environment, nor the character of the area given the multiple ways in which its harmful impact could have been reduced which have not been pursued. An attempt has been made through planting to screen views, however the new planting along the northern site boundary is of such small scale that it is wholly ineffective for this purpose. Guidance suggests that when designing development steps should be taken to avoid adverse impact on heritage assets and their settings. Screening does not avoid impact, it can only mitigate and the need for mitigation does little more than confirm that there is a harmful impact which requires mitigation. The screening planting itself, by the time it becomes sufficiently established to be effective, will be a source of harm in its own right by visually severing the listed building from portions of its former parkland. The ability for screening to be a source of harm

in its own right is a key part of the reason for screening not being an advocated solution to heritage harm.

4.43 Given the character, prominence, scale and position of the building sitting centrally within key views outward from the principal rooms within Bunny Hall, the building has a harmful effect upon the special architectural and historic significance of the building as a Grade I listed building, and on the ability to perceive and appreciate that significance. The scale of harm is considered to be low-moderate within the broad scale that less than substantial harm represents, however any harm to the significance of a Grade I listed building is to be 'wholly exceptional' within the NPPF and would require a greater justification that a similar degree of harm to the significance of a grade II, or even II*, listed building.

4.44 Given that clear alternatives which would be inherently less harmful exist even if there is a justification for a building, and one of this size, there can be no justification (in heritage terms) for its retention in its current position, orientation and design. The requirement for any harm to benefit from a clear and convincing justification sits at paragraph 213 of the NPPF and precedes the balancing test for 'less than substantial harm' in paragraph 215. This is logically such that unjustified harm should not be considered acceptable just because the benefits which it delivers outweigh that harm.

4.45 The Council also considers that there are no public benefits to outweigh the harm to heritage asset, and the development would consequently be contrary to Paragraph 215 of the NPPF when considering the balancing test.

4.46 In terms of design, the building is sited to the northern section of the site and views/ glimpses of the building are visible from Fairham Brook Lane via the access point to the south of the site. The building is oriented to show its longest elevation from Fairham Brook Lane**.** The Council considers that the building does not assimilate into the landscape, nor does it have a similar or sympathetic appearance compared to nearby agricultural buildings by virtue of the conservatory and porch area which are domestic in nature. It is located on an area of land previously void of built form which has an inherent open nature. The Council considers the siting of this building in this location causes harm to the character of the area**.**

4.47 The Council therefore considers that the proposed development would be contrary to Chapter 12 (Achieving well-designed places) and Chapter 16 (Conserving and enhancing the historic environment) of the NPPF, Policy 10 (Design and Enhancing Local Identity) and 11 (Historic Environment) of Local Plan Part 1: Core Strategy and Policies 1 (Development Requirements) and 28 (Conserving and Enhancing Heritage Assets) of Local Plan Part 2: Land and Planning Policies.

4.48 None of The Rushcliffe Design Codes are applicable to the development.

<u>The impact of the development on Flood Risk</u>

4.49 Policy 2 'Climate Change' of the Rushcliffe Local Plan Part 1: Core Strategy (2014) states that 'All development proposals will be expected to mitigate against and adapt to climate change, and to comply with national and local targets on reducing carbon emissions and energy use, unless it can be clearly demonstrated that full compliance with the policy is not viable or feasible'.

4.50 The application site is located within Flood Zone 2 and 3, but the buildings itself is located within the Flood Zone 1. No Flood Risk Assessment has been submitted as part of the appeal under Ground A and whilst the building itself is not located within the Flood Zone, the access to the building is located within Flood Zone 2 and 3 and therefore the available access or egress from the building in the event of a flood could be compromised.

4.51 The Council therefore considers that the development would be contrary to Policy 2 (Climate Change) of Local Plan Part 2: Core Strategy. The Council also considered that the development would not accord with Policy 17 (managing Flood Risk) of Local Plan Part 2: Land and Planning Policies which asserts that '*development proposals in areas of flood risk will only be considered when accompanied by a site specific food risk assessment'* and also requires that *'mitigation measures which protect the site and manage residual flood risk, such as flood resistance/ resilience measures and the provision of safe access and escape routes'.*

Planning Balance and Conclusion

4.52 Overall, The Council considers that the development would be considered inappropriate development within the Green Belt and would cause undoubted harm to its openness. No very special circumstances have been submitted that clearly outweigh the fundamental harm to the Green Belt.

4.53 The Council also considers that the development would cause less than substantial harm to the Grade I listed Bunny Hall to the low-moderate end of the scale. No public benefits have been provided which outweigh this harm. The building would also cause harm to the character of the area by virtue of its orientation, design and scale.

4.54 The Council also considers that the appellant has not adequately demonstrated that the development subject to the appeal would not cause significant harm in terms of Flood Risk and impacts.

4.55 For the above reasons, The Council considers that the proposal would be contrary to national and local planning policies and respectfully requests the Inspector to dismiss the Ground A appeal.

Ground B and Ground C

5.1 An appeal has been made under ground (B) in which the appellant has alleged that a breach of planning control alleged in the Enforcement Notice has not occurred and under Ground (C) in which the appellant has stated that the development has occurred but is lawful. The evidence presented by the appellant under the two grounds is effectively the same.

5.2 The appellant has alleged that deemed consent had been secured via the Prior Notification process (GPDO Schedule 2, Part 6, Class E) after the Council failed to issue a decision within the 28-day statutory period (which expired on 4 January 2024) and has provided copies of documents which the appellant alleges were submitted to the council on 7 December 2023. No such claim was made at any time prior to the Council's site visit and inspection on 28th October 2025. The purpose of that visit was to take detailed measurements of the building for the service of a further enforcement notice given the appellants claims at the May 2025 appeal site visit that the building was also a caravan and did not require planning permission, the council had postponed such a visit until after the determination of the previous appeal which was dismissed in September of 2025.

5.3 The council contends that these documents were never submitted to the council, indeed they contain information such that they could not have existed in the form now presented by the appellant in December of 2023, indeed they could not have existed until some time after May of 2025 at the very earliest. It is the case of the Council that the documents provided by the appellant are fictitious and have been produced as an attempt to mislead, initially, the LPA and, now, the Planning Inspectorate.

5.4 The appellant has submitted documents which it is alleged were received and stamped by a council officer on 7 December 2023 (Appendix C) at the Council's customer service centre in West Bridgford. The stamp and signature are genuine, however through the following discussion the council must maintain the view that whatever document was stamped and signed on 7th December it was not this document, and was likely a different application submitted on the same date for the rearrangement of a private way. The document presented to the inspectorate claiming to be a prior approval application for the building subject of this appeal, has been produced by the appellant after May 2025 as there are discrepancies and errors within this document that the council will itemise below which will demonstrate that the document cannot have existed in December of 2023.

5.5 Quotations from www.woodlandtrust.org.uk – The quotations included in the document were not available on this website at the time the document was allegedly submitted. The version of the website which was live between October 22nd 2023 and 5 January 2024 stated that figures of 13% of the UK's land area, compared to an EU average of 37% were covered by trees. The document submitted by the appellant allegedly created around December 2023 quotes the figures of 13.5% and 38% respectively, which is what the website says today, but not what it said at the turn of 2023/4. According to the internet archive service "way back machine" the change in these figures occurred sometime between the archived version saved on May 24th 2025 and that saved on 12th

September 2025 where the higher figures of 13.5 and 38% appeared for the first time (Appendix D). This is also consistent with the fact that the previous claim that the building was a caravan, and did not need planning permission, made at the May 2025 appeal site visit was abandoned and replaced by the current argument that deemed consent exists for the first time in October of 2025.

5.6 This is not a simple typo, it is a quotation from a website specifically quoting text which does exist in the form quoted today, but which did not exist in that form until at least 18 months after the point it is claimed that this was produced and submitted to the council, specifically quoting figures which were not published until sometime after 24 May 2025.

5.7 Aerial Image – The image provided as an appendix to the alleged prior approval application showing the flooding of the land and surrounding area could not have been created on or before 7 December 2023. The image clearly shows properties on Loughborough Road, Bunny, two of these properties (138 and 142 Loughborough Road Bunny) have had works or alterations, made after December 2023, which are evident in the photograph submitted by the appellant.

5.8 A Static caravan is visible in the image to the rear garden of 138 Loughborough Road, which was not delivered to the property until 1 November 2024, this has been confirmed in writing by the owner of the property (Appendix E). The static caravan is present to facilitate the demolition of the former bungalow at this address and construction of a replacement house. The roof alterations and associated temporary weatherproof scaffolding to 142 Loughborough Road which are also visible in the aerial photograph also were not present in, or before, December 2023, the owner of the property has confirmed in writing to the council that the temporary scaffolding was not erected until December 2024 and removed in January 2025 (Appendix F). This scaffold was present to provide weather protection whilst alterations to the roof of the property were being undertaken. Both the mobile home and temporary scaffolding to both properties are highlighted in Appendix G for clarity.

5.9 The council has also confirmed with a neighbouring resident that flooding occurred to the area on 6 January 2025, images of this flood event have been obtained and show an extent of flooding of a private driveway to the north which is consistent with the flooding visible in the aerial image. Due to the reasons set out above the council is of the view that this document was not created or submitted to the council on 7 December 2023 as it clearly contains features which could not possibly have appeared in a photograph taken before December 2023.

5.10 The appellant has provided a copy of a payment receipt which it is claimed was provided following payment of a fee to the council in connection with this alleged application for a building (Appendix H). This fee was paid to the council, however, it was not in connection with an application for the forestry building. This fee was paid in connection with the application for a ‘rearrangement of private way’ – being the agricultural trackway prior approval which was received

on the same date (7th December) and from which would have contained the receipt stamp and signature. There are also discrepancies with the copy of the receipt provided by the appellant. It must be highlighted that the reference for the receipt reads "*planning misc fees –"*, with no further text within the description following the "-". There are subtle flaws evident within the document which the council believes is evidence that this receipt has been altered to remove the full text of the description, the text to the top left of the document which reads 'receipt details' is distorted as if this document is a photocopy of an original which has had a staple removed from across the text. That the document is a photocopy is important as there is also a faintly visible vertical line after the text "*planning misc fees –",* as if something has been overlaid the original document to hide the full description whilst it was being photocopied or scanned.

5.11 The council has included a copy of the receipt issued in relation to the application from the 7th December 2023 the appellant made, where the full description is provided for all payments (Appendix I), including the text beyond the "-" making clear that the receipt presented was a receipt for a fee paid for rearrangement of a private way. It must also be noted that the receipt provided by the council has the same date and exact time and reference as the copy provided by the appellant. Also supplied is a table showing all transactions included for the card number of the appellant (Appendix J), this table shows payments made for 2 applications, both hard surfacing and rearrangement of a private way.

5.12 A copy of a letter has been provided by the complainant, that was allegedly issued by the council on 22 December 2023, acknowledging receipt of an application for the alleged Agricultural Notification, the reference on this letter is 23/02352/AGRIC (Appendix K). The council has no record of having ever produced or sent this letter and the reference number provided on the letter does not exist on the council's electronic system. Our systems allocate new applications sequential numbers regardless of whether they are planning applications, prior-approvals or pre-planning enquires, as such there is an application reference 23/02352/ADVICE - this was a pre-application advice enquiry for land in Hawksworth and as such is not published on our website. It is not possible that there would have been another application beginning 23/02352/.

5.13 Acknowledgement letters for applications are produced and reference fields populated automatically via the councils electronic systems and there is no possibility of the refence number being incorrect through human error. The council must also highlight inconsistencies in the format and vertical alignment of the reference number and description of development which are not in keeping with the other fields contained within the letter. When comparing the three acknowledgement letters submitted by the appellant the two genuine letters referring to the two prior approval applications which were made in late 2023 have the reference number and description of development text perfectly centred between text on the lines above and below.

5.14 The third letter, for the alleged application, is identical in content to the other letter of the same date for the trackway, the only text which differs is the reference number and the description of development and this is the only text which is not perfectly centred between the lines above and below (Appendix L). It is the councils view that this letter has been created by manipulation of the genuine letter of the same date, obscuring the genuine reference number and description and the insertion of alternative text. Given that the council cannot have issued an acknowledgement letter for an application which cannot have existed and for which no fee was ever paid, the claimed acknowledgement letter is not one produced by the Council.

5.15 The appellant has provided a copy of an email received from the council on 22 December 2023 which relates to the merging of two applications (Appendix M). This email was not in connection with any application for the forestry building and related to two applications submitted, for hard surfacing and rearrangement of private way respectively. The entirety of the email correspondence has been provided for clarity (Appendix N).

5.16 The appellant has stated that their agricultural holding is 5.34 hectares and any application for prior-approval is predicated on their agricultural holding being 5 hectares or more. As the land located to Fairham Brook Lane is less than 5 hectares the appellant has claimed that they are leasing land located at Ash Lane Costock and have provided a Lease Agreement in order to demonstrate this (Appendix O) together with details of land registration with the Rural Payments Agency, part of DEFRA. The council is of the view that the rental document is also fictitious and has evidence to support this, itemised below;

5.17 Ownership details – The owner stated in the lease agreement dated 29 October 2025 is a ‘Robert Orton’ of an address in Solihull. This is not the owner of the land in question and also was not the owner of the land at the time of this agreement. The Land Registry records for this land show that this parcel of land is actually split over 3 separate titles. Title number NT59501 (Appendix P) is within the ownership of Antoni Miroslaw Skuriat and Veronica Skuriat. They have confirmed in writing to the council that they have owned the land since 1979 and have at no time let, leased or relinquished control of the land (Appendix Q).

5.18 Title numbers NT153863 and NT510832 (Appendix R and S respectively) are within the ownership of BW Sipp trustees Limited and Nicholas Edward Newbold, and BW Sipp trustees Limited and Stephen Paul Donlan respectively. The council has received confirmation in writing from BW Sipp Trustees that they have not provided authority for Mr Orton to sign documents on its behalf, and it has not provided consent for RIVERSIDE FARM JK LIMITED to use the land (Appendix T). Mr Donlan has also confirmed to the council that he has not sold, leased or let the land to anyone (Appendix U). No response has been received from Nicholas Edward Newbold, however, the council understands that Nicholas Edward Newbold is deceased as of 25th February 2025, this was confirmed by BW Sipp Trustees verbally.

5.19 It is also worth highlighting that regardless of these serious issues with the alleged rental agreement, that agreement was only signed in October of 2025. As such any prior approval application submitted for the appeal building by the appellant in December of 2023, and the Council strongly reiterates that no such application was submitted, would have been submitted at a time when the permitted development right to which it would relate did not apply as the holding was less than 5 hectares. Given that the owners of the land at Ash Lane all deny having given Mr Orton power to rent the land on their behalf it remains the case that the agricultural holding is under 5 hectares.

5.20 Errors within Lease Agreement - Clause 10.2(b) of the lease agreement refers to ‘clause 19.8’, clause 12.2 of the lease agreement refers to ‘clause 16.1’, clause 14.2 refers to ‘clause 18.1’. These clauses do not exist within the lease agreement, which does not extend beyond clause 15.10.

5.21 For the reasons set out above, the council is of the view that the validity of the lease agreement is highly questionable and whilst it is possible for the appellant to have been misled by Robert Orton, who is stated as the owner of the land and signatory of the document, the council would pose the question how the appellant was approached by Mr Orton and why the errors contained within the document were not noticed by the appellant.

5.22 The council also feels it necessary to highlight comments made by the appellant during a previous site visit by the Planning Inspectorate, in which the appellant claimed to have permissions to use/farm land adjacent to the west of the appeal site. The appellant has also previously sent copies of documents to the council which show that this land has been registered by the appellant with the Rural Payments Agency in an attempt to claim that they had control of this land (Appendix V). Whilst this land is no longer mentioned by the appellant it is important that the inspectorate appreciate that the appellant has made past claims to have a right to farm land beyond that in their ownership and that these claims have proven to be as unfounded as the lease for the Ash Lane Land is now being presented. The council has liaised with the owner of the land to the west of Riverside Farm and received confirmation that no permissions have been given for the appellant to farm/use this land whatsoever. The Council understands that the owner of that land is now pursuing private legal action in attempt to prevent the unlawful use of, and trespass onto, their land. This has been confirmed in writing (Appendix W).

5.23 Given that the appellant has previously made discredited claims to have the right to access and farm other land it further demonstrates the case for the Council that on the balance of probability, the rental agreement for the Costock land is a fictitious document.

Conclusion

6.1 It is for the reasons set out above that the council believes the Enforcement Notice must be upheld. The appellant did not submit an application to the council in December 2023 for Prior Notification in order for the forestry building to benefit from Permitted Development rights under Schedule 2, Part 6 of the

Town and Country Planning (General Permitted Development) (England) Order 2015 and so the development cannot therefore be granted consent by default through lack of response from the council within the prescribed 28 day period. The development would also not have the benefit of permitted development rights, even if an application were submitted, as it has been demonstrated by the council that the development is not on land which is within an agricultural holding of 5 hectares or more.

6.2 The council feels it necessary at this stage to reiterate that the appellant has been disingenuous in their appeal and that the council can clearly demonstrate facts which leave little room for any conclusion other than that the appellant is fabricating documents in support of their appeal. The council feels that it is important to state that given the level of errors highlighted within the documentation provided by the appellant, the Inspector should scrutinise the documents closely in respect of this appeal.

6.3 The Council trusts that the evidence presented above will explain why the council did not provide a fuller response to the costs claim which the appellant submitted right at the outset of their appeal and that the above will very clearly explain why the appellants position that the council unreasonably took enforcement action knowing of a deemed consent is entirely without merit and we expect the costs claim to be dismissed.

6.4 The inspectorate will appreciate that investigating and defending an appeal on the basis of the need for forensic examination of documents to reveal their factual basis or not has taken considerably more time and resource than a typical appeal case. As such the Council intends to make a costs claim of its own given that facts of the case as set above. The Council will withhold submission of a formal cost claim at present whilst we await to see the appellant response to this statement.