

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

REBUTTAL STATEMENT OF THE LOCAL PLANNING AUTHORITY

Planning Inspectorate Reference: 6005948

Local Planning Authority Reference: 23/00034/BUILD

Response to Appeal Statement of Appellant

- 1.1 The appellant has stated that the structure is not a replacement dwelling and is used for the for the purposes of forestry storage. To clarify, the council has not referred to the building as a replacement dwelling in any formal notices issued and the description of the building within the Enforcement Notice refers to it as an "agricultural processing building" or a "forestry building". Descriptions which the appellant has previously described the building as. The council did, in error send Appeal Notification Letters in error, however, these were subsequently corrected at the same time as adding the Ground B appeal allowed by the inspectorate.
- 1.2 The council has also not referred to the other building, which is the subject of an enforcement notice, and what is appearing likely to become formal action for non-compliance with the notice, as a dwelling, in any formal notices. For clarity, in a recent interview under caution conducted in connection with non-compliance with the live enforcement notice, the appellant has stated that they have no fixed residential address, the only address they are able to provide is Riverside Farm which they state is solely a correspondence address. Residential use forms no part of the allegation in the enforcement notice and forms no part of the council's case. Local residents have, within third party statements and separately, expressed concern that a residential use is occurring from the building subject of the live enforcement notice, however, at present there is no evidence to confirm this and as the site is secure any inspection visits have to be arranged in advance creating a delay to inspections, which would allow for any evidence of residential use, most notably sleeping arrangements, to be hidden. As an enforcement notice is in place requiring the building to be demolished, the council is of the view that any residential use could not become immune/lawful through the passage of time as it would itself be reliant upon the continued existence of a building in breach of an enforcement notice which would be unlawful.
- 1.3 The appellant, in their most recent comments has made further reference to an application for prior approval, which they are alleging was submitted on 7 December 2023, however, as proven in the council's previous statement, the documents which have been submitted by the appellant as evidence could not have been submitted at that time. There are works taking place to properties visible in the aerial photograph (confirmed and evidenced in writing from the owners of 138 and 142 Loughborough Road Bunny) which were not occurring on or before 7 December 2023. Quotes taken from the Woodland Trust webpage were also included in the documents which were not available on that website on or before 7 December 2023. The appellant has also provided correspondence which is allegedly from the council acknowledging receipt of an application, however, as previously stated, the reference number provided

on the letter does not exist on the council's systems and the letter provided also has errors in the formatting and alignment of text as demonstrated.

- 1.4 As has been evidenced by the council, no application for prior approval was submitted on 7 December 2023 and the allegation that the council has received an application, assigned the application a reference number on the council's electronic system (which are assigned to planning applications in sequential order as received), acknowledged receipt of the application and then somehow deleted this record as an administrative error is beyond the bounds of credibility as a reasonable explanation. The building cannot have the benefit of permitted development rights through prior approval as no application was submitted or received by the council.
- 1.5 The appellant has referred to previous planning permissions (refs: 25/01818/FUL and 25/01819/LBC) in an attempt to justify an inconsistency by the council in applying heritage protection. The applications provided relate to the demolition of an existing modern timber framed and timber clad garage and stable buildings and erection of replacement garage and stable buildings to Bunny Hall, within the residential curtilage of the property. It must be noted that application ref: 25/01819/LBC was an application for Listed Building Consent for the works, which was subsequently withdrawn as the works did not require Listed Building Consent as the existing building did not post date 1947.
- 1.6 The appellant has provided invoices relating to works which have allegedly been undertaken by Riverside Farm JK Limited in the Scottish Borders. The council does not see the merit in these documents as these in no way prove that the building is Permitted Development or explain why no breach has occurred or that the building is appropriate to be granted planning permission retrospectively through Ground A.
- 1.7 As with other 'evidence' provided by the appellant, there is a discrepancy with the invoice dated 22 September 2023 (Appellants Appendix 9.1), notably, the postcode provided for the company on the footnote of the letter. The postcode NG11 6SQ did not exist prior to 7th November 2023 as evidenced by correspondence sent to the appellant on 8th November 2023, The council holds copies of this and is happy to supply copies if required, in summary a new postcode, being NG11 6SQ was created by Royal Mail on 7th November 2023 and advised to the appellant for the first time on 8th November 2023. The council would question how the appellant issued an invoice dated 22 September 2023 with a postcode that did not exist on this date, and which was not created as a new postcode by Royal Mail until some 6 weeks later.
- 1.8 Whilst the council finds no irregularity with the other invoices provided it does raise the question for consideration – why would an appellant submit one

fabricated invoice amongst 6 other legitimate and genuine invoices? If one is of dubious integrity, together with the various rental agreement, prior approval application, fee receipt, acknowledgment letter documents addressed in our initial statement, then questions must legitimately be asked of the others. It is also reasonable to ask, if the purpose of the invoices is to somehow demonstrate a functional need for this building on this site, why has the appellant chosen to produce invoices relating exclusively to work undertaken a 5 hour drive away in the Scottish Borders, sometimes for such small values that undertaking this work at such a distance can never be financially viable as a business activity.

- 1.9 Ultimately, the council questions the purpose or point behind the submission of these invoices, and only spends so much time addressing them as they present a further example of an apparent willingness of the appellant to fabricate documents in support of their case.
- 1.10 The appellant has made issue with the reference number provided for the Enforcement Case (ref: 23/00034/BUILD) due to chronological inconsistencies. This reference number relates to the enforcement reference for the site, both the enforcement case for the agricultural welfare building (subject of the live enforcement notice previously upheld at appeal) and the agro-forestry building (subject of this appeal). The reference number 24/00569/ENAPP relates to the appeals against both enforcement notices as a public file for the publication of appeal documents.
- 1.11 The Council understands from one of the landowners that the appellant has recently reached out in connection with the land in Costock, suggesting that they have been misled and have unintentionally been trespassing and fly-grazing sheep on this land as they believed they had a legitimate tenancy over it. The council cannot know if the appellant intends to submit this as part of their final comments in an attempt to show that they have been misled, as opposed to seeking to mislead. This follows an apparent realisation that this case doesn't hinge on having a 5 hectare holding, despite previous insistence that this was something they wished to demonstrate as part of their appeal. If the inspectorate is to believe that the appellant has indeed been deceived it may be reasonable to ask whether this allegation of fraud perpetrated against them has been reported to the relevant police force, and if so whether a crime reference number has been obtained which could then be independently confirmed by the inspectorate. Even if the 5 hectare matter is not relevant this remains a legitimate consideration for the inspector as it is simply one example of dishonesty amongst the many detailed by the LPA in its initial statement, and this rebuttal.
- 1.12 It should be noted that the rental agreement conveniently gives extensive contact details, including telephone numbers and email addresses, for the

alleged landowner and landlord which is not a typical inclusion in such agreements, it is also interesting that it contains no equivalent details for the named tenant which would at least be internally consistent. It appears a reasonable conjecture that this inclusion of landlord contact details may have been solely so that when presented to the council, and the inspectorate, we would have an easy way of contacting the alleged landlord to confirm the legitimacy of the agreement. It was the fact that the contact details were so freely offered that the council elected to instead independently identify the actual owners of the land via the land registry and contact them instead. If no crime has been reported it does raise the question as to whether this document was created in co-operation between Mr Orton and the appellant, as there seems no other obvious reason as to why the allegation of fraud would not have been reported to the police if it was genuinely believed by the appellant.

Conclusion

- 1.13 It would appear to the council that the appellant is attempting to obtain planning permission via deception , which has been evidenced in the council's original statement and further discrepancies with the invoice dated 22 September 2023 and must reiterate to the inspector that all information provided the appellant, and any future information, be treated cautiously, especially given that amongst the further information submitted by the appellant on 5th May is an invoice which cannot have been created as presented on the date claimed.

Full List of LPA Appendices Across Statement and Rebuttal:

Appendix A – Riverside Farm JK Ltd Company Accounts – May 2023

Appendix B - Riverside Farm JK Ltd Company Accounts – May 2025

Appendix C – Alleged Prior Approval Application dated December 2023

Appendix D – Web Archive Forestry Commission Webpage Comparison

Appendix E – Correspondence, 138 Loughborough Road RE Mobile Home

Appendix F – Correspondence 142 Loughborough Road RE Scaffold Roof

Appendix G – Appellants Aerial Photograph Extract Highlighting 142 and 138 Loughborough Road.

Appendix H – Appellants Alleged Payment Receipt – 7 December 2023

Appendix I – LPA True Copy Payment Receipt – 7 December 2023

Appendix J – LPA Payment Record Extract

Appendix K – Alleged Acknowledgement Letter for Alleged Prior Approval Application

Appendix L – Comparison of Acknowledgement Letters

Appendix M – Correspondence M Dunne, Merged Applications

Appendix N – Emails With Council 16 December 2023 and 22 December 2023

Appendix O – Alleged Rental Agreement, Costock Ash Lane

Appendix P – Land Registry Title, Costock Land

Appendix Q – Correspondence, Costock Landowner 1 Skuriat

Appendix R – Land Registry Title, Costock Land

Appendix S - Land Registry Title, Costock Land

Appendix T – Correspondence Costock Landowner 2, BW SIPP

Appendix U – Correspondence Costock Landowner 3, Donlan

Appendix V – RPA Documents

Appendix W – Correspondence, Landowner land adjoining Riverside Farm to west.