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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

PROOF OF EVIDENCE OF JAMES BATE; PLANNING TEAM MANAGER – MONITORING AND IMPLEMENTATION

Planning Inspectorate Reference: 6005948

Local Planning Authority Reference: 23/00034/BUILD

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Introduction

- 1.1 This proof of evidence has been prepared by myself, Mr James Bate, and represents my true and professional opinions, based on my professional knowledge and experience. This is given in accordance with the guidance of my professional institute.
- 1.2 I am a graduate of the universities of Derby (BSc Hons – Heritage/Architectural Conservation, 2007), York (MSc – Building Conservation, 2015) and Leicester (CertArch – Archaeology, 2020). I am a professionally qualified conservation specialist and full member of the Institute of Historic Building Conservation (IHBC), to which I was elected in 2010. As with all members of the IHBC, I am bound by a Code of Professional Conduct which applies to my professional activities and requires that I act with competence, honesty and integrity, and exercise independent professional judgement at all times.
- 1.3 I have over 19 years of professional experience working continuously in local government as a Conservation Officer, and more recently as a manager within the Planning Department with line management responsibility for the Conservation Officer, Planning Enforcement team and Planning Contributions Officer. For the past 5 years my role has included managing the planning enforcement team and playing an active role as an investigator. My role includes work on enforcement matters having previously issued various listed building repairs and urgent works notices, listed buildings enforcement notices, s215 notices, defended enforcement appeals and prosecutions.

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Executive Summary

- 2.1 This appeal by Dr Julita Geary ('the Appellant') is against the decision of Rushcliffe Borough Council ('the Council') to issue a planning Enforcement Notice for breach of planning control under Section 171A1(a) of the Town and Country Planning Act 1990 ('the 1990 Act'). The breach relates to the erection of an unauthorised building ('the building') on the land at Riverside Farm, Fairham Brook Lane, Bunny, Nottingham, NG11 6SQ ('the land'). This is within the Green Belt and nearby Grade I listed building, Bunny Hall.
- 2.2 The building has been described by the Appellant as an 'agricultural processing building' or 'forestry building'. The building consists of a timber framed pitched roof section and includes a porch area and a recycled domestic uPVC and double-glazed conservatory, which the Appellant states is an 'agricultural glasshouse' or 'solar kiln'. The Appellant claims the building is necessary for the development of their forestry business.
- 2.3 The Council's position in relation to this building is as follows:
- 2.3.1 No application for planning permission or prior approval has been submitted for this development, until an agricultural prior approval under Part 6 Class A submitted in January 2026 after construction was already well advanced.
 - 2.3.2 The building does not meet the requirements of any classification under Permitted Development without prior approval.
 - 2.3.3 The building adversely impacts a nearby Grade I listed building and is not an appropriate development meeting a functional need to justify the building within Greenbelt.
 - 2.3.4 The building is in an area of flood risk without safe egress.
 - 2.3.5 The building is an intentional unauthorised development by the Appellant.
- 2.4 As a result of the Enforcement Notice, dated 04.02.2026 and served by the Council on 10.02.2026, the Appellant is required to remove this structure from the land and return the land to its previous condition, removing any related materials or debris. The Appellant is also to refrain from constructing further buildings on the land without the benefit of planning permission.
- 2.5 The Appellant has appealed against the Enforcement Notice, initially under grounds (a) and (c), shortly adding ground (b) and later, as of the CMC, grounds (e) and (f). Each of these grounds are opposed by the Council, as briefly summarised below:
- 2.6 Ground A on various grounds, mostly covered in the evidence of Mr Reyonlds, but also amongst other matters that the development results in harm to the significance of a Grade I Listed Building via its setting.
- 2.7 Ground B on the basis that operational development has taken place and is of the nature alleged in the notice, and that this is not affected or altered by subsequent third-party appeal notification letters which do not form part of the notice. Also that the building is

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accurately described in the notice including through accurate dimensions, unless the building has been altered since the notice was served to change its dimensions.

2.8 Ground C on the basis that the claimed deemed consent from December 2023 arises from an alleged application which appears to never have been submitted and which also appears to have been put together sometime after May 2025.

2.9 Ground E on the basis that the notice was correctly served and that Ms Alexandra Geary has no lawful interest in the land as a shareholder of the company which owns it as an asset and that errors in an initial version of a third-party appeal notification letter , subsequently corrected, do not invalidate the notice itself.

2.10 Ground F on the basis that the building is accurately described in the notice, that its demolition is what is necessary to address the breach and that the demolition should apply to the whole building which the appellant has indicated was incomplete at the point at which the notice was served. Finally, that the reference to future development stands as an attempt to promote awareness of s181 of the Town and Country Planning Act 1990

Essential Background

3.1 The Appellants previous involvement with the Council's planning department is:

3.1.1 October 2022 - prior-approval application submitted for erection of a bridge crossing of Fairham Brook, Bunny Park (reference: 22/02001/AGRIC). The application was submitted after the development; the Council informed the Appellant that prior approval was not required on this occasion and any matters in breach have been resolved.

3.1.2 In late November and early December 2023 two prior approval applications for agricultural development were submitted to the Council. 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 Council advised that if the Applicant wanted to enquire as to whether the proposed development would fall within the criteria of permitted development, they would need to submit a Certificate of Lawful Use application. No such application was ever submitted. The prior approval applications were:

- (i) 16 November 2023 - prior approval application submitted for the 'creation of hardstanding area of 450 metres' (reference: 23/02098/AGRIC)
- (ii) 07 December 2023 - prior approval application submitted for an access track (reference: 23/02353/AGRIC)

3.1.3 21 December 2023 - the Council issued an Enforcement Notice for the construction of an unauthorised building on the land. The appellant described the building as a health and safety shelter, or welfare shelter, for agricultural workers. The Appellant

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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 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.

- 3.2 The Council became aware of the construction of the building the subject of this current appeal during a site visit in October 2024. This was a site visit in relation to the 'health and safety shelter' building, referenced above. Initially, the Appellant suggested this building was a caravan. A survey of the building was undertaken when visiting the site alongside the Planning Inspector in connection with that prior appeal (Planning Inspectorate ref: APP/P3040/C/21/3284007) in May of 2025. The Inspector on that appeal made a point of inspecting all buildings and structures within the site as part of his site visit.
- 3.3 After determination of the previous appeal on 8th September 2025 the Council requested to visit the site and subsequently visited again on 28th October 2025 to take measurements of the building subject to this appeal, including internal measurements. The Appellant maintained that this building was a caravan and therefore did not require planning permission as operational development. The Council explained the measurements confirmed an internal height of 4.52m, being significantly greater than the 3.05m allowed within the definition of a caravan. In response to this, the Appellant then claimed that the building had deemed consent through an earlier prior approval submission to the Council made in December 2023. If true, this would be timed alongside the submission of the earlier applications reference 23/02098/AGRIC (hardstanding) and 23/02353/AGRIC (access track).
- 3.4 The Council had no record of an agricultural prior approval application being made by the Appellant, other than the two referenced in paragraph 3.1.2 above and requested a copy of the alleged application. This was provided by the Appellant [RBC – Appendix C - 2032824] in the form of a letter dated 7th December 2023 giving notice of a forestry development under permitted development rights. This application was never received by the Council and the documents purporting to illustrate submission and/or acknowledgement by the Council, are not genuine documents. This is not an administrative error by the Council. The lack of prior approval and planning permission ultimately led to the service of the Enforcement Notice in respect of the building in February 2026.
- 3.5 The Appellant has been advised by the Council that it considers the accuracy of the documents presented to be in dispute. Notwithstanding this, the Appellant has issued an appeal against the Enforcement Notice. The Council opposes the appeal on all grounds.

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Site and Surroundings

- 4.1 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.
- 4.2 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.
- 4.3 Approximately 210m northwest of the site is a Grade II listed feature known as 'Small Tomb Chest'. The feature 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'.
- 4.4 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'.
- 4.5 The site is accessible only via a bridge across the brook which runs along the southern boundary of the site. Approximately three quarters of the site being the southern and western parts, including the only site access, are within flood zone 3

Appeal Grounds

The following have been ordered to follow the Inspectors sequential ordering from the CMC on 23 September 2026.

Ground (e) – whether the Enforcement Notice was properly served

- 5.1 The Appellant alleges that copies of the Enforcement Notice were not served as required by section 172 of the 1990 Act, in that her daughter Alexandra Victoria Geary was not provided with a copy of the Notice and is owner of the land. This is refuted by the appellant's own appeal statement Appendix 6, being a copy of registered title NT449626 relevant to the appeal site and confirming that the owner of the land is a company, Riverside Farm JK Ltd.
- 5.2 Prior to serving the Enforcement Notice, the Council also checked with the land registry to ascertain individuals with an interest in the land and to confirm no change since the service of the previous enforcement notice on this site. The Land Registry details confirmed ownership by Riverside Farm JK Ltd and a charge on the land in favour of CEMA Solutions Ltd. Further review of the Companies House Records identified details of 2 directors for Riverside Farm JK Ltd, one of whom was also listed as the company secretary. The

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following person(s) had a registered and valid interest in the land and were therefore served with a copy of the Enforcement Notice:

- (i) Dr Julita Geary; Riverside Farm JK Ltd, Riverside Farm, Fairham Brook Lane, Bunny, Nottingham, NG11 6SQ (Director and Secretary)
- (ii) Mr Keith Geary; Riverside Farm JK Ltd, Riverside Farm, Fairham Brook Lane, Bunny, Nottingham, NG11 6SQ (Director)
- (iii) CEMA Solutions Ltd; White House Clarendon Street, Corner Of Wollaton Street, Nottingham, Nottinghamshire, NG1 5GF (have a mortgage charge over the land: appellants exhibit 6 land registry, in 07.04.26 docs)

- 5.3 Dr and Mr Geary's Notices were hand delivered by the Council to the mailbox on the land. The Notice issued to CEMA Solutions was posted to the company. CEMA Solutions have been in contact with the Council as a result, so the Council know it was received.
- 5.4 At the time the Notice was issued and served, Alexandra Geary was not the owner of the land and did not need to be served with the Notice, it remains the case as of 30th September 2026 that Alexandra Geary is not listed as a director of Riverside Farm JK Ltd. The Council is aware that Alexandra Geary is a shareholder of the company, but not a director. The Appellant's Grounds of Appeal and her Statement of Case filed in March and May 2026 do not raise this issue, nor provide any evidence to indicate that Alexandra Geary has any significant involvement in the land or its operation, or that there has been prejudice by the failure to serve Alexandra Geary, to her or on themselves as Appellants.
- 5.5 On the specific matter of whether or not a shareholder in a company has a legal interest in the assets of that company *Macaura v Northern Assurance Company (1925) AC619* is the usual authority. The caselaw has not been superseded or overturned and established the position that a shareholder, or creditor, has no legal or equitable interest in a company's assets.
- 5.6 The duty to serve notice on the owners of the land applies only to the company, discharged by serving the notice on all of its directors, one of whom also being the company secretary, discharges that obligation.
- 5.7 The council does not accept that failure to serve copies of the notice on all shareholders would render the notice incorrectly served.
- 5.8 Section 176(5) of the 1990 provides for the Secretary of State to disregard the fact of a person not being properly served with an Enforcement Notice if there is no evidence of substantial prejudice. The Council do not accept service was not properly completed, but in the alternative, consider there has been no substantial prejudice to the Appellant, nor to Alexandra Geary.
- 5.9 On 25th September the appellant submitted a statement prepared by a barrister on her behalf which raises matters separate and different to those raised at the CMC and addressed above.
- 5.10 This statement does not allege that there were parties on whom the notice was not served, but rather that the notice is not properly served if the notice does not clearly set out its

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requirements and that as such the notice does not contain the information required of a notice within section 173.

- 5.11 The position relied upon is that rather than the notice itself being unclear or deficient subsequently issued documents which are not themselves the notice, and which only had to be issued as a result of the appeal process, somehow retrospectively render the notice itself to be incorrectly served. This cannot be the case and as the inspector herself explained to the appellant during the CMC any ground E appeal must be limited to defects with the notice and how it was served, not things which came after.
- 5.12 The Appeal Notification Letter is served upon third parties with an interest in the appeal to notify them that an appeal has been made and give them the opportunity to be involved. The appellant is not a third party and did not require notification of the appeal as they were already aware of it and already had their own appeal timetable for the submission of evidence to the inspectorate.
- 5.13 Regardless, as the appeal; notification letter is not part of the notice it can have no relevance to the soundness of the notice or whether or not the way in which the notice was served was correct. The letter would not have existed had an appeal not been brought, and the bringing of an appeal cannot itself create the basis for that appeal.
- 5.14 Nonetheless, the position of the appellant now appears to be that the notice should have been withdrawn and re-issued to replace the nature of the breach alleged in the notice with the content of an appeal notification letter dated 31st March 2026 (Appendix AA), in that this notification letter contained different alleged breaches of planning control to those contained in the notice.
- 5.15 As the appellant rightly points out it is the notice, and the allegations contained within which are under appeal. The letter dated 31st March 2026 was issued in error, as has already been explained to the inspectorate, and that error was corrected by the re-issue of the appeal notification letter on 8th April 2026 (Appendix AB), this matter is also discussed under ground b at 6.4 (vi).
- 5.16 It was the appeal notification letter dated 31st March (Appendix AA) which was in error, and that error was corrected by the reissue of the letter on 8th April 2026 (Appendix AB). There was no error with the notice itself in this respect and to the extent that an error occurred it was both limited to the appeal notification letter and was corrected at the earliest opportunity. The appellant did not raise any issue with the notification letter dated 31st March until considerably after the updated version had already been issued. When reads together it should be clear that the second letter corrects the first.
- 5.17 Neither letter was served on the appellant, however this would not have been a requirement. The correspondence was not hidden from the appellant having been uploaded as required; however any confusion that this correspondence may have created only exists because the appellant has sought it out and has not sought any explanation or clarification as to why two letters were issued until the existence of correspondence requesting the inclusion of appeals on grounds E and F was revealed in the days immediately preceding the CMC.

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- 5.18 It should also be clarified that when the appellant claims that the Local Authority “relies upon” these letters of 31st March and 8th April this is incorrect, these letters are procedural notifications as part of the appeal process and are not items of evidence which form any part of the notice or the Council's case in respect of this appeal.
- 5.19 At the CMC the Council was made aware of correspondence submitted to the inspectorate on 9th July which the council had not previously had sight of. This was subsequently shared with us after the CMC, the correspondence from that date also makes reference to some application made on 4th July, although the council also has no record of this application or what it might be.
- 5.20 Within the 9th July correspondence is an allegation that the notice is defective as a result of being based upon documents created after it was served. The documents referenced are all appendices to the councils statement of case. Understandably, as these documents all relate to defence of an appeal brought against it the council cannot have prepared its appeal statement until it knew that an appeal had been made, and the basis of that appeal. It is in no way unusual that a local planning authority prepares documents in defence of an appeal only after an appeal is made, which of necessity must be after a notice has already been served.
- 5.21 The appellant approaches their list of documents on the basis that the date on time on which they were last saved before being uploaded must be the point at which they were created (or first known) as evidence. This is incorrect. As a clear example our Appendix C is stated by the appellant as having been “Created on 5 May 2026 between 11:11 AM and 12:16 PM by James Bate, Peter Muter”, however the nature of Appendix C is a copy of the appellant's own (alleged) prior approval application said to have been submitted to us on 7th December 2023. This document clearly was not created by the council in May of 2026. The file may have been saved at that time, largely owing to the need to redact the appellant's signature form it before upload to the website and submission to the inspectorate to ensure GPDO compliance. Indeed several of the documents objected to as being 'created' on the deadline for submission, were saved at that point owing to redaction of personal information for GPDR compliance (Appendices E and U - both email chains from 8 April with sensitive personal information redacted).
- 5.22 Other documents submitted as statement of case appendices may have been prepared shortly before submission, but this does not suggest that the council was ignorant of the information which they contain prior to this. As an example the Council had no need to create a document summarising and evidencing how it was aware that the quote from the Forestry Commission website contained within the alleged December 2023 prior approval submission could not have been obtained prior to May 2025 (appendix W) until the need to do so as part of a written representations appeal arose.
- 5.23 Similarly with Appendix L the council was aware within moments of receiving the alleged confirmation of receipt letter for non-existent application reference 23/02352/AGRIC, being the alleged prior approval application submitted by the appellant on 7th December 2023, that there were clear issues with alignment of text which suggest the document has been altered, but we were not obliged to create a document placing the relevant extracts side

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by side for the benefit of illustrating the issue to a third party, in this case the inspector, until the need to do so as part of a written representations appeal arose.

- 5.24 The claim that appendices P, R and S, being land registry documents relevant to the land in Costock to which the appellant claimed to have a lease saved on 23rd April means that the council did not know that the appellant did not control this land at the time of serving the notice is also irrelevant. In order to be relevant, the alleged prior approval application form December 2023 would need to be a legitimate document to create deemed consent, which I maintain it cannot be, and that application would have to relate to Class A, so engaging the 5 hectare threshold, rather than Class E of Part 6.
- 5.24 Ultimately none of these points are suspicious nor do any of them represent grounds for a successful appeal on any ground. When the local authority is set a deadline for the submission of a statement of case, or any other evidence, whether that evidence is finalised one month before the deadline or one minute before the deadline is wholly irrelevant to the facts of the case being presented.
- 5.25 A further point relates to the various dates of 4th and 10th February. Letters of these dates were raised at the CMC and are referenced in the Post CMC note as an issue to be covered. The enforcement notice itself carries a date of 4th February. This is the date on which the notice was finalised and signed by an authorised officer of the council (Andrew Cullen – Planning Manager – Development), worded in section 171 of the TCPA 1990 as “issued”, once a notice has been issued it must then be served within 28 days, and the date on which the notice takes effect must be no less than 28 days after the date on which it is served.
- 5.24 The notice was therefore issued on 4th February 2026, served on 10th February 2026 and had an effective date given as 12th March 2026, being 30 clear days later. All of these dates are in accordance with the time periods set out in section 171. It is correct that the wording in the appeal notification letters that the notice was issued on 10th February is conflating the date on which copies of the notice were served with the date on which it was authorised/issued, however the appeal notification letter is a procedural element of the appeal process. No 3rd party notified of the appeal could have been disadvantaged or adversely affected in their ability to engage in the appeal process owing to the use of the word ‘issued’ within the notification letter where the wording should have been ‘served’. As previously stated the appeal notification letter is not itself part of the notice and cannot render the notice defective, notwithstanding that this wording error has not adversely affected anyone.
- 5.25 There is a final suggestion that the notice refers to both a building and a large structure. These are all references to the same building and the same breach of planning control. The council is happy that the wording can be amended to make these references consistent as referring to a building. The notice is clear as to what it relates to both in terms of the description of the breach and the plans which identify its location on the site and as such there is no hardship arising from an amendment to the wording in the requirements of the notice to address this.

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Ground (b) - that the breach of control alleged in the enforcement notice has not occurred as a matter of fact

- 6.1 The Council understands the Appellant to be arguing that the building is a 'development' for the purposes of section 55 of the 1990 Act but that the building itself does not meet the measurements specified in the Enforcement Notice. The Appellant also argues that a 'replacement dwelling' has not been built.
- 6.2 The Council considers that there has been a building erected on the land at Riverside Farm, and that this building would require planning permission. At the time the measurements of the building were taken on 28 October 2025 they were accurate. The Council are not alleging in the Enforcement Notice that the building is a replacement dwelling.
- 6.3 The LPA is confident that the measurements quoted in the notice are correct, with the 28 October 2025 site visit having been undertaken specifically for the purpose of measuring the building and confirming that it did not meet the size criteria to be a 'caravan'. Given the secure nature of the site and the limited time between the CMC and the deadline for submission of proofs the LPA has not revisited to confirm its measurements, and has no reason to suspect the measurements given in the enforcement notice are incorrect. We have utilised publicly available aerial photography to 'sense check' the measurements in the notice and measurements taken from aerial photography do align with the measurements given in the notice. As such the LPA has no concern that this is a legitimate point being raised by the appellant and if necessary invites the inspector to take their own measurements during the site visit to address this point beyond doubt.
- 6.4 The Inspector has requested the Council address the following in this proof of evidence:
- (i) Whether or not the structure erected is of the dimensions specified in the Enforcement Notice.
- The measurements of the building provided on the Enforcement Notice are; *"totalling some 15.1m in length, 5.05m in width and comprising a pitched roof timber framed section measuring approximately 10.30m (l) by 5.05m (w) and 4.52 (h – internal), with a porch on the north side 1.15m x 2.25m in height, with a domestic style conservatory measuring 4.80m (l) by 5m (w)."*
 - These measurements were obtained by Myself, aided by retired former colleague Mr Geoff Woods on 28 October 2025.
 - The measurements were recorded at the time by both in notes not retained and in audio-video bodycam recording.
 - The Council has no reason to believe the measurements are different from the measurements taken at the time, unless there have been alterations to the building since this date. If that is the case, the Appellant has failed to inform the Council of this change.
- (ii) If not, whether this is an error in the enforcement notice and whether that makes the notice invalid.
- The Council is currently unaware of any different measurements.

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- Notwithstanding the exact size of the measurements, the Appellant accepts that a building has been erected on the land. The Appellant has submitted photographs of the building, including photographs showing people stood inside the building (07.05.26 - App 4 – building internal photograph), so it is clear all parties are referring to the same building.

(iii) Whether the notice can be corrected.

- Under section 176(1)(a) of the 1990 Act, the Secretary of State may correct any defect, error or misdescription in the Enforcement Notice if satisfied that the correction of variation will not cause injustice to the Appellant or the Local Planning Authority.

(iv) What that correction might be.

- The correction could reference the date the measurements were taken as *"recorded on 28 October 2025 as..."*, or if there has been alteration the building since this time, the updated measurements could be added to the Enforcement Notice as *"further amended by building alteration to..."* and update the previous measurements to *"recorded as accurate on 28 October 2025."*

(v) Whether injustice would be caused to any party if the notice were to be corrected.

- Without knowing what evidence there is of altered measurements, this is difficult to answer on behalf of prejudice to the Council. However, as a point of principle if it is a simple amendment of basic measurements the Council considers there is likely no injustice to either party.
- If measurements were to be presented to infer the building now met the smaller measurements sufficient to be considered a caravan, this would cause prejudice to the Council.

(vi) 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.

- It is the Appellant who refers to the building as a 'replacement dwelling' in the Statement of Case. The Council have not referred to the building as a 'replacement dwelling' in the Enforcement Notice or in any of its formal appeal submissions.
- It has been explained to the inspectorate that an initial 3rd party appeal notification letter was issued on 31st March 2026 and that this letter contained text carried over from some previous appeal notification letter utilised as a template, the notification also seemed to refer to the December 2023 enforcement notice which had already been appealed and had its appeal dismissed. An updated notification letter was issued on 8th April 2026 both correcting the various errors in the initial latter and also adding in the Ground B appeal which the inspectorate allowed to be added after the appeal was initially made. The late issue of the notification letter and its correction stems from the need for the Council to redact sensitive personal information from the appellants submissions, including names, addresses, telephone numbers, email addresses and signatures of third parties. The council

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had requested that the appellant supply suitably redacted copies, or confirmation that these third parties were happy for their personal information to be processed and published by the Council however no confirmation or redacted versions were supplied, leaving the council to undertake this work itself. The third party notification letters were not issued to the appellant as they are not a third party and would already have been fully aware of the appeal having made it and received direct notification from the inspectorate.

- The Council do not accept there is a mischaracterisation of the building within the notice. There is clear evidence of a domestic style conservatory attached to the building, whatever its alleged function. This also features in the drawn plans attached to the (alleged) prior approval application, which the Appellant relies upon to suggest her application was submitted to the Council on 7 December 2023 [RBC – Appendix C – 2032824].

- 6.4 Given the way the Appellant has argued her position, there is some overlap of matters in ground (b) and (c) regarding whether the building constitutes a breach of planning control and is therefore a lawful development. For the avoidance of doubt, overlapping matters relating to the question of deemed consent or planning permission, are covered under ground (c) below.

Ground (c) - that those matters (if they occurred) do not constitute a breach of planning control

- 7.1 The Council understands that the Appellant accepts that the building referenced in the Enforcement Notice is a 'development' within section 55(1) of the 1990 Act, but that she considers the building has planning permission by virtue of the Town and Country Planning (General Permitted Development) (England) Order 2015 ('the 2015 Order') and is therefore lawful.
- 7.2 It is agreed between the parties that the only relevant considerations of permitted development that the Inspector needs to consider are those within Class E of Schedule 2, Part 6 of the 2015 Order. This relates to a forestry development. The hectare size of the Appellants land is therefore not an issue. The requirements for a permitted forestry development is: a development used for the purposes of forestry *and* that the development is reasonably necessary for the purposes of forestry.
- 7.3 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 allegedly expired on 4 January 2024) and has provided documents seeking to prove her case.
- 7.4 The Appellant has submitted documents which it is alleged were received and stamped by a Council officer on 7 December 2023 (RBC - Appendix C - 2032824) at the Council's customer service centre in West Bridgford. The stamp and signature are genuine, however through the enquiries made, the Council must maintain the view that whatever document

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was stamped and signed on 7 December 2023 it was not, and could not have been, this document. The Appellant did submit a different application on the same date for the rearrangement of a private way, reference: 23/02353/AGRIC. It is the Council's position that the Appellant has deliberately provided documents to infer and/or intentionally deceive the Council and arguably the Inspector, into believing that a legitimate application for permitted development rights were submitted to the Council on the 7 December 2023 in respect of the appeal building, when no such notification of application was ever submitted, and even if such an application was made it cannot have been the application now presented to the appeal given it contains information which cannot have existed on 7 December 2023.

Payment reference numbers and receipts

- 7.5 The Appellant has provided a copy of a payment receipt which is claimed was provided following payment of a fee to the Council in connection with this alleged application (RBC - Appendix H - 2032830). There is handwriting on the bottom of this receipt suggesting it was for payment of "*Notice to erect forestry building Class E forestry development. 7th December 2023*" however the typed narrative of the receipt appears silent over what the "*Planning Misc Fees –*" relate to. The receipt is suggestive of £96 having been paid to the Council.
- 7.6 A fee was paid to the Council however, it was not in connection with an application for a forestry building, as that was never made. A fee was paid in connection with the application for a "*rearrangement of private way*" and related to a different application made by the Appellant on the 7 December 2023. The receipt for that private driveway application bears the additional text in the narrative of "*Planning Misc Fees – Rearrangement of pr*" (RBC – Appendix I – 2032831). This has been downloaded from the Council's electronic records and the Council can vouch for this being a legitimate receipt.
- 7.7 Comparing the two receipt documents H & I, the following is apparent:
- (i) both receipts bear the same reference number, ZZWS00098234.
 - (ii) both receipts bear the same date and exact payment time to the second, 07/12/2023 10:01:01.
 - (iii) both receipts bear the same payment details and amount paid.
 - (iv) both receipts bear the same reference number, 11612110.
- 7.8 Clear differences with the two receipts are:
- (i) the receipt provided by the Appellant (App H) shows a faintly visible vertical line after the text "*planning misc fees –*" and the description is left blank as if text is missing.
 - (ii) the text at the top of the page "*Receipt details*" on the receipt provided by the Appellant (App H) is formatted incorrectly, as if this had been where a staple has been removed.
- Both of these factors would be possible if the original receipt (App I) was used to create a fictitious receipt, with something overlaid on the original document to hide the full description whilst the original receipt was being photocopied or scanned.
- 7.9 Also supplied is a table showing all transactions between the Council and the Appellant included for the Appellant's card number (RBC - Appendix J - 2032832). This table shows

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payments made for two applications: hard surfacing and rearrangement of a private way. The reference number seen on the receipt provided by the Appellant (App H) is attributed to the fee for "*Rearrangement of private way*". This document also shows payments that have been paid and subsequently credited to the Appellants account; importantly it can be seen that different reference numbers are given to each payment. Despite this, on the receipt provided by the Appellant it has the same reference number as the receipt for the private driveway.

Acknowledgement letters

- 7.10 A copy of a letter has been provided by the Appellant, 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 (RBC - Appendix K - 2032835). 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 that is unrelated to the Appellant and as it is advice, it is not published on our website. It is not possible that there would have been another application beginning 23/02352/. Acknowledgement letters for applications are produced and reference fields populated automatically via the Council's electronic systems and there is no possibility of the reference number being incorrect through human error.
- 7.11 There are also 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 (4A Access track acknowledgement letter – 2025062 & 4B hardstanding acknowledgement letter - 2025063) referring to the two prior approval applications which were made in late 2023, these have the reference number and description of development text perfectly centred between text on the lines above and below. Whereas the letter submitted by the Appellant purporting to be acknowledgement of the forestry storage application (4 Forestry storage acknowledgement letter – 2025061) does not appear similarly aligned: comparison document RBC – Appendix L - 2032836.

Supporting emails

- 7.12 In support of her argument, 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 (RBC-Appendix M - 2032837). It may be this is to infer the Council made an error with the logging and/or categorisation of her applications and to suggest two planning applications were made on the 7 December 2023, with one being related to the appeal building. This is incorrect and the full email chain was not provided by the Appellant.
- 7.13 This email was not in connection with any application for the forestry building and instead related to two applications submitted, one at the end of November and one at the beginning of December 2023, for creation of an area of hard surfacing and rearrangement of private way respectively. The entirety of the email correspondence has been provided for clarity

Commented [SV1]: If this was a forestry application, would it still say agricultural notification?

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(RBC - Appendix N - 2032838). The full email chain clearly references the two applications made in respect of "our farm", including hardstanding for haybales necessary due to flooding from Storm Babet (occurring 20-21 October 2023). The two reference numbers repeatedly used throughout are references 23/02098/AGRIC (hardstanding) and 23/02353/AGRIC (access track). There is no confusion in this email about which applications were being discussed and no reference is made to a third application, or a forestry building.

[Prior approval application letter 7 December 2023](#)

7.14 As outlined at paragraph 7.4 above, this letter provided by the Appellant purports to prove a valid prior notification letter was submitted to the Council on the 7 December 2023 (RBC - Appendix C - 2032824). It is the Council's position that, in addition to all the reasons outlined above, this letter cannot have existed in December 2023 and must therefore have been produced at a later date as the council cannot have acknowledged receipt of an application which, in turn, cannot have existed.

7.15 [Quotations from \[www.woodlandtrust.org.uk\]\(http://www.woodlandtrust.org.uk\) –](#)

- (i) The quotations included in the prior notification document were not available on this website at the time the document was allegedly submitted. The document submitted by the Appellant quotes (page 5) that woods are our allies against climate change, *"yet just 13.5% of the UK's land area is covered by trees (compared with an EU average of 38%)"*. This is what the website says today, but not what it said at the turn of 2023/4.
- (ii) The version of the website which was live between 22 October 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. If the prior notification letter was produced for submission on 7 December 2023, these are the figures that were publicly available at the time and what you would expect to have seen on the Appellant's application.
- (iii) According to the internet archive service "WayBackMachine" the change in these figures occurred sometime between the archived version saved on 24 May 2025 and that saved on 12 September 2025 where the higher figures of 13.5% and 38% appeared for the first time (RBC - Appendix D - 2032825).
- (iv) On checking all the archived versions of the webpage from 7 December 2023 going back to January 2020 when these archives were started, that include the percentages quoted by the Appellant on the prior approval application, at no time were the percentages 13.5% and 38% used. Those figures can only have come from the version of the website publicly available from a date after 24 May 2025.
- (v) This is also consistent with the fact that the Appellant's original position was that the building was a caravan and did not need planning permission, as made at the May 2025 appeal site visit, which was later abandoned and replaced by the current argument that deemed consent exists, made for the first time in October of 2025.

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This is not a simple typo, it is a quotation from a website specifically quoting text which did exist in the quoted form until some 18 months after the document containing the quote was allegedly created, specifically and accurately quoting a pair of figures which were not published until sometime after 24 May 2025.

7.16 [Aerial Image –](#)

- (i) The image provided at page 8 as an appendix to the alleged prior approval application (RBC – Appendix C – 2032824) showing the flooding of the land and surrounding area, could not have been created on or before 7 December 2023. The image shows properties 138 and 142 on Loughborough Road, Bunny. These properties have had works or alterations made after December 2023 which are evident in the photograph submitted by the Appellant. The relevant properties are highlighted in red on RBC – Appendix G – 2032829.
- (ii) 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 (RBC - Appendix E - 2032827). The static caravan is present to facilitate the demolition of the former bungalow at this address and construction of a replacement house.
- (iii) The roof alterations and associated temporary weatherproof scaffolding to 142 Loughborough Road which are visible in the aerial photograph were not present in 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 (RBC - Appendix F - 2032828).
- (iv) Although the ariel image shows flooding, I have 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. Details of flooding in Nottingham is readily available online. The existence of floodwater in the photograph attached to the alleged prior notification letter, is therefore not conclusive evidence that the photograph was taken prior to the 7 December 2023.
- (v) Due to the reasons set out above I would be of the view that this prior notification 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 had it been taken before that date.

- 7.17 The Council is satisfied that no prior notification of the proposed forestry development was lodged by the Appellant, on the 7 December 2023 or at all. The documents that have been presented to seek to confirm the Council received the application, took payment for the application and acknowledged the application, are fictitious. Documents have been created to seek to infer the Council has made an error and misplaced an application properly made. This is untrue.

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- 7.18 The benefit to the Appellant of inferring a prior notification was validly made and not responded to by the Council, would infer deemed consent and provide planning permission by default to the Appellant for the building on the land. The date of the alleged notification letter detailing when the Council were to respond, was the 4 January 2024. However, whilst preserving its position in relation to the lack of a valid application and that aside, the Council do not accept that this application, if made, would result in planning permission being granted by reason of a Class E permitted development in forestry as the Appellant has failed to show the building is reasonably necessary for the purposes of forestry. Additionally, a development not deemed reasonably necessary cannot obtain planning permission by default as the 2015 Order does not confer rights on non-compliant permitted developments, only on those that meet the criteria.

Ownership details

- 7.19 Whilst not pursuing hectare size as irrelevant to forestry, the following facts are relevant to the actions of the Appellant to infer rights over the land and to further illustrate deliberate dishonesty and an intent to deceive.
- (i) The Appellant has claimed that they are leasing 1.59 hectares of land located at Ash Lane Costock and have provided a Lease Agreement in order to demonstrate this (RBC - Appendix O - 2032840) together with details of land registration with the Rural Payments Agency, part of DEFRA. 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 (RBC - Appendix P - 2032842) 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 (RBC - Appendix Q - 2032843).
 - (ii) Title numbers NT153863 and NT510832 (RBC - Appendix R – 2032845, and map RBC – Appendix R – 2032844, and RBC – Appendix S – 2032847, and map RBC – Appendix S – 2032846, 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 (RBC - Appendix T - 2032848). Mr Donlan has also confirmed to the Council that he has not sold, leased or let the land to anyone (RBC - Appendix U - 2032849). No response has been received from Nicholas Edward Newbold, however, the Council understands that Nicholas Edward Newbold is deceased as of 25 February 2025, this was confirmed by BW Sipp Trustees verbally.
 - (iii) There are also 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.

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- (iv) Regardless of the forementioned issues with the alleged rental agreement, that agreement was only signed in October of 2025, significantly after any prior approval application allegedly submitted by the Appellant in December of 2023.
- (v) The Council also highlights 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 (RBC - Appendix V - 2032850). 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 which 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 (RBC - Appendix W - 2032851).

Ground (c) – main considerations

7.20 The Council is asked by the Inspector to specifically address four main considerations. In relation to each of these considerations, the Council's position is outlined underneath:

- (1) Whether or not the structure would benefit from the permission granted by reason of Class E, including whether the structure is on land used for the purposes of forestry, including afforestation, and is development reasonably necessary for those purposes.
 - (i) A key consideration as part of the prior approval process would have been consideration of whether a development used for the purposes of forestry *and* that the development is reasonably necessary for that purpose. The Council is not satisfied that either applies in this case.
 - (ii) The Appellant suggests they already operate a forestry business and provide invoices all of which relate to work, sometimes of low value, undertaken in the Scottish Borders (Appellants invoices, appendices 9.1-9.7). The Council has seen little to no evidence of forestry work that necessitates equipment to be stored in the building. Beyond assertions, the Appellant has provided no evidence that the building is necessary for the purposes of forestry or is being used in that way.
 - (iii) Notwithstanding the absence of a forest, the equipment in the building and on the land is not directly linked to forestry, nor does what is stored in the building justify the significant height of the building. The Appellant has referred to "*seed preparation and herbal extracts*" in their Statement of Case, pt 3, but this is not forestry work and certainly would not satisfy the reasonably necessary test for siting in that location.

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Companies House has Riverside Farm registered as a business of plant propagation, mixed farming, post-harvest crop activities, seed processing for propagation; but not forestry [Appellant 8. Companies House Info].

- (iv) The Council considers that the only parts of the building with doors larger than standard pedestrian doors are the parts which have not been built yet. That does raise the question of how the forestry business currently operates without this equipment and why this equipment would become necessary once a building exists to house it.
- (v) When the building was first constructed in October 2024 there was no forest on the land. The Appellant has secured funding for tree planting on the land but this was not obtained until some point after 19 September 2025 (Appellants Appendices 3, tab WCP 5, and 11). The Appellant points to a small copse of trees at the north east corner of the land, and trees growing along a raised bund running alongside the river, however neither of these small groups of trees could be reasonably argued to represent forest. Whilst there is no statutory definition of forestry land in planning legislation, it is taken as being land with 20% canopy cover of trees. As of late 2024 this site had canopy cover of around 10% of the site area. Far from being maintained or managed as woodland by the appellants' sheep being grazed on the land by them have stripped bark from the lower trunks of the trees in the northwest corner. No notable increase in tree cover via new planting has occurred on the land since 2024. Evidence is presented by the Appellant in the form of their Appendix 11, which has some independent verification, and is that the applications for grant funding was not made until September 2025. After September 2025 entries in that document are specific, detailed and dated; everything prior to that date is vague and lacks scope for independent verification.
- (vi) The forestry application for funding (Appellants Appendix 3) details at tab-7 in the Operational Plan, that the Council provided a General Development Order in January to construct a 170m long access track and 450 m2 hard standing area.; this is untrue, whilst this is the work in that covered in the two agricultural prior approvals which were made in November and December 2023 both of those applications were returned and refunded as unneeded – the Borough Council did not, therefore, grant anything. The operational plan also details the reference to machines such as a '*semi-mechanical tree planting machine, an alpine tractor with tracks...a single row planting machine...two rollers.*' The Council are aware of no such equipment on site, or why they need to be stored in that location in any event.
- (vii) The only dates in the Appellants Appendix 3 are in September 2025, with the earliest being 12th September – which is four days after the previous appeal failed, and similarly the earliest specific date in Appendix 11 is September 2025. It is unconvincing that this site was a forestry site on the day that work to build the building began in October 2024. The Council is not satisfied that the forestry argument is not a post-rationalisation made only after grant funding for tree planting was obtained sometime after September 2025, that being after the building was partly constructed and previous appeals had been dismissed ending any argument that planning permission could be obtained for buildings as 'caravans'.

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- (viii) At most therefore, the Appellant refers to an intention to create a forest using a maintenance grant for 2112 trees, but there is no evidence this intention was present when the building was erected or indeed that a building would be reasonably necessary to create the forest. It is not accepted the *"building serves as the mandatory 'base operations' required to fulfil the technical and reporting obligations of this nationally funded grant"*, nor that its size is required *"to accommodate the turning circles of specialised forestry tractors, [or] forestry machinery storage"* [Appellant Additional Statement, 4.1-4.5] as it has not been constructed in this way. There remains little to no evidence the building is used for the purposes of forestry, or that the building in that location is reasonably necessary for the purposes of forestry.
- (ix) The Council does not accept the Appellant's argument in the Statement of Case that the development satisfies the 'reasonably necessary' test for the 5.34 hectare forestry holding, as hectare size is relevant to agricultural, not forestry. Additionally, the Council is concerned that the Appellant does not have access to 5.34 hectares of land and instead has produced documents to dishonestly infer this; see evidence under paragraph 7.19 'Ownership details'.

(2) 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.

- (i) An application for prior approval was not validly made. The evidence in answer to this consideration has been outlined above throughout paragraphs 7.1 onwards.
- (ii) At the CMC the appellant raised a further prior approval application made in early 2026 via which it is claimed that deemed consent arises. This is application reference 26/00111/AGRIC.
- (iii) At the CMC there was also discussion between all parties of whether Part 6 Class A was relevant to this appeal and it was accepted at that part of the discussion that it was not. The appellant failed to clarify that this application reference 26/00111/AGRIC was an application specifically made under Schedule 2, Part 6 Class A. Their application covering letter specifically references this in the bold subject line, and there are two further references to Class A within the body of the text. There is no mention of class E anywhere within the submission. Whilst the Council did not issue a decision within 28 days it is the position of the Council that as the appellant did not have a 5 hectare holding when the application was made the Permitted Development right to which it was related was not engaged as a matter of fact and as such non-determination cannot give rise to a deemed consent position, and even if it could it could not be for a forestry building as that was not the basis on which the application was made.
- (iv) At the CMC the inspector repeatedly stated that no new evidence should be submitted, but where documents which were already in the possession of all parties were needed to address new points raised at the CMC then these could be submitted. As such the Council presents a copy of the application letter and application form from 26/00111/AGRIC (redacted to remove inflammatory and scandalous allegations about a third party) given as Appendices AC and AD

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respectively, as documents produced by the appellant and submitted to the council these are already in the possession of the appellant.

- (v) In respect of the refusal notice for this application mentioned by the appellant this was issued as a notice after the appellant withdraw an appeal against non-determination of 26/00111/AGRIC (PINS reference 6007321) specifically on the basis that she didn't need the appeal as she had obtained "Irrevocable Deemed Consent". The council took the decision to issue a late decision notice under class A, the class on which the application was made, confirming its position that the permitted development right under class A was not engaged (Appendix AE). Whilst the Council cannot revoke deemed consent by issuing a refusal beyond 28 days the council can confirm its view that the permitted development right never applied, which was the purpose of the decision being issued.

(3) 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.

- (i) Notwithstanding the Council's overall position, the Council does not accept that deemed consent would automatically exist from 5 January 2024 for a forestry development simply by any alleged failure to respond to the Appellant's application. The Appellant would still have to satisfy the test for permitted development i.e. reasonably necessary for forestry purposes.
- (ii) The basic principle is that development which is not "permitted development" within the GPDO cannot simply become "permitted development" by default if not considered within 28 days: Keenan v Woking Borough Council, Secretary of State for Communities and Local Government [2016] EWHC 427 (Admin) at [40]. It must still be development that is legitimately considered to be reasonably necessary for the relevant purpose i.e. reasonably necessary for the purpose of forestry. The Appellant's building does not meet the requirements.

(4) If so, whether the structure that is the subject of the notice accords with the permission granted by reason of Class E.

- (i) The building does not have express permission or certificate of lawfulness. The merits of relevant planning permissions will be covered by Mark Reynolds.

Ground (a) – whether planning permission should be granted for the building

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

8.1 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.

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8.2 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.

8.3 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 from 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 below).



8.4 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.

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- 8.5 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.
- 8.6 It is not agreed 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, that planting was undertaken after enforcement action was taken against another unauthorised building to the west of the appeal subject in an effort to soften visual impact. However the new planting along the northern site boundary is of such small scale that it is wholly ineffective for this purpose. Guidance (The Setting of Heritage Assets: Historic Environment Good Practice Advice in Planning Note 3 - Second Edition) 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 for it 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 and surrounding landscape. 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.
- 8.7 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 it should be noted that this harm relates to a Grade I listed building, placing it in the top 2.5% of listed buildings.
- 8.8 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 Policy HE4-2 of the NDMP and precedes the balancing test for 'less than substantial harm' in Policy HE6-4 of the NDMP. This is logically such that unjustified harm should not be considered acceptable just because the benefits which it delivers outweigh that harm.
- 8.9 There are no public benefits to outweigh the harm to a heritage asset, and the development would consequently be contrary to Policy HE6-4 of the NDMP when considering the balancing test.
- 8.10 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

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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.

- 8.11 The proposed development would be contrary to Chapter 14 (Achieving well-designed places) and Chapter 20 (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.
- 8.12 At the case management conference it was alleged by Dr Geary that the council was being unreasonable in maintaining adverse impact on the significance of a listed building via its setting as an issue at this appeal because, as claimed by the appellant, this matter had already been entirely dismissed by the previous inspector who found no harm.
- 8.13 The council submits a copy of the previous inspectors published decision, again a document which the appellant already has in their possession (Appendix AF), which makes abundantly clear that the inspector found the exact opposite of what the appellant alleged at the CMC.
- 8.14 At paragraph 59 of his decision the previous inspector concluded that, for the same reasons as the previous appeal building adversely affects landscape, it would also be "*harmfully intrusive and inappropriate*" to the Hall's former open parkland setting, which in turn harms the significance of the listed building. The inspector went on in Paragraph 60 to confirm that it was his view that no conditions could adequately mitigate that harm.
- 8.15 There is no basis in fact for any claim that the previous inspector dismissed harm to heritage assets or that the council knows that this is a failed argument, indeed the previous appeal decision supports the polar opposite of the position taken by the appellant at the CMC.
- 8.16 It should be noted that whilst the previous inspector was considering a different building this appeal concerns a building which is significantly taller and a comparable distance and direction from the listed building. The newly updated NPPF has increased the weight which must be given to the preservation of heritage assets from 'great weight' (old p.212) to 'substantial weight' (new HE6:1). As such there will be greater weight in the planning balance given to preservation of heritage assets than was the case in the previous, dismissed, appeal in connection with another building very nearby to the building subject of this appeal.
- 8.17 The remaining evidence relating to ground (a) planning considerations shall be addressed by Mark Reynolds.

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Ground (f) - the steps required by the Notice to be taken exceed what is necessary to remedy any breach of planning control

- 9.1 The Council understands this ground relates to the requirements of the Enforcement Notice, requirement 5.3 which states that the Appellant is to: *"Refrain from constructing any further buildings on your land (edged red), without the benefit of planning permission."*
- 9.2 This was required by the Notice to ensure that the Appellant understood that the Enforcement Notice prevents further development on the land as per s181, in light of the appellant being unrepresented and regularly omitting to seek advice from either private professionals or from the council before undertaking works. The requirement is therefore an attempt to make plain to the appellant that should they comply with the notice by removing the building and thereafter re-erect a building for similar purposes elsewhere within the red line of the enforcement notice the notice would have enduring effect and would not need to be re-served nor would there be any renewed right of appeal. The Council accepts that the Appellant is now undoubtedly aware of this given this proof of evidence and as such the requirement could be omitted without allowing the appellant to claim ignorance of this provision in future.
- 9.3 It is slightly unclear as to whether the allegation that the dimensions of the building are incorrect as stated in the enforcement notice is also intended to form part of a ground F appeal. The appellant was unclear as to whether the measurements given are claimed to be too large, or too small, as such the appellant may be inferring that the notice is excessive in requiring a building larger than that which exists to be demolished. The issue of the dimensions stated in the notice is already covered under ground b within this proof and the council would maintain that the dimensions quoted are correct unless the building has been altered since the measurements were taken. To the extent that this point might be argued under ground F I do not consider it to have a factual basis.
- 9.4 At the CMC the inspector also raised concern about a section of the notice referencing portions of the building which may not yet have been constructed. The notice relates to a building, that building was, at the time of service, already large and incongruous in both the landscape and the setting of a grade I listed building and clearly sufficient to represent a operational development in breach of planning control. An LPA is not obliged to wait for operational development to be complete before taking enforcement action against it.
- 9.5 The building had reached a size, and had not been added to between the previous appeal site visit in May 2026 and the service of the notice in February 2026, however at the site visit to measure the building in preparation for service of the notice subject of this appeal in October 2026 the appellant, for the first time, raised the alleged prior approval application from December 2023 and the claim that this gave deemed consent. The plans associated with this alleged application show the building as it stood on the day the notice was served but with further elements giving it a significantly larger footprint to the south and west.
- 9.6 As the council is not obliged to wait for the building to be complete before commencing enforcement action against it and as the appellant had placed on record an intention that the building was incomplete and would be significantly larger once completed the notice is drafted to require demolition of 'the structure'. Whilst the notice is issued in respect of the

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breach which existed on the day it was issued its requirement was drafted so as to ensure that the requirement was to demolish the entire structure and this was include if the appellant had chosen to continue to building further elements, as had been their express intent as evidenced by the plans contained within the alleged prior approval application shows for the first time in October of 2025 but dated December 2023.

- 9.5 Where a notice requires demolition of "a building" or "a structure" the notice will clearly refer to the whole building or structure. If no stop notice is served and the landowner chooses to continue building that building before the notice takes effect, or during an appeal against the notice, the notice will not become defective simply because it does not refer to parts of the structure which were not present on the day it was served, nor could those additions be lawfully retained whilst claiming compliance with the notice unless some argument could be made that the later work is entirely separate in nature. The inclusion of the unconstructed components on the alleged plans from December 2023 would count against any argument that constructing these after the service of the notice would represent entirely separate operations as opposed to simply progressing with an already expressed intent as part of a continuation of unauthorised construction already in progress. Again, the council worded the notice in an effort to clarify to an unadvised landowner that they the notice would extend to any further works to the building which they chose to undertake after its service.

Alleged Document Suppression

10.1 Separate from the usual grounds of appeal we understand that the appellant has, on several occasions, written to the inspectorate insisting that the appeal be abandoned and the notice quashed unilaterally on the basis of the council seeking a 'trial by ambush' or 'prosecution' without full disclosure.

10.2 Despite referring to the appeal process as a prosecution, the appellant is entirely incorrect in categorising it as such. There is no universal obligation for disclosure in connection with a planning enforcement appeal. All of the appellant's grounds of appeal should be capable of being addressed through information in the appellant's possession.

10.3 The Councils own case is fully set out in its statement of case and the appendices put forward in support of it which the appellant has had open access to since the date that statements were submitted and exchanged by the inspectorate.

10.4 A prosecution will occur only if this appeal is dismissed and the appellant fails to comply with the requirements of the enforcement notice, should it be upheld, and then only if the council seeks prosecution as an alternative to direct action and costs recovery.

10.5 A duty of disclosure will be engaged only if the council seeks to prosecute one or more criminal offences related to non-compliance with the previous enforcement notice already upheld at appeal in September 2025, the notice relating to a shed on this site which was also served on 10th February 2026 and which was not appealed against, and the enforcement notice subject of the current appeal should it be upheld and not be complied with.

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10.6 No duty of disclosure yet exists and the council will not be permitted to unreasonably rely on new evidence not already presented within its statement of case, beyond documents invited by the inspector as part of the CMC on the basis that these are documents of which the appellant will already be aware, either because they have referred to them (in the case of the third party appeal notification letters and the September 2025 appeal decision) or because they produced them (in the case of the application documents for 26/001110AGRIC which they raised at the CMC).