



Appeal Decisions

Hearing held on 6 August 2024

Site visit made on 7 August 2024

by Mark Harbottle BSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 02 September 2024

Appeal 1 Ref: APP/B3030/C/23/3334291

Appeal 2 Ref: APP/B3030/C/23/3334292

Land at Fernhill, Hoveringham Road, Caythorpe NG14 7EE

- The appeals are made under section 174 of the Town and Country Planning Act 1990 (as amended) ("the Act") by Mr Sean Reddington (Appeal 1) and Mrs Nicola Reddington (Appeal 2) against an enforcement notice issued by Newark and Sherwood District Council on 6 November 2023.
- The breach of planning control as alleged in the notice is: Without planning permission, development consisting of the material change of use of land from agricultural use to residential use.
- The requirement of the notice is: Cease the residential use of the land.
- The period for compliance with the requirement is: 70 days after the notice takes effect.
- The appeals are proceeding on the grounds set out in section 174(2)(b), (c) of the Act.

Summary of Decisions: The appeals are allowed and the notice is quashed.

Appeal 3 Ref: APP/B3030/C/23/3334304

Appeal 4 Ref: APP/B3030/C/23/3334305

Land at Fernhill, Hoveringham Road, Caythorpe NG14 7EE

- The appeals are made under section 174 of the Act by Mr Sean Reddington (Appeal 3) and Mrs Nicola Reddington (Appeal 4) against an enforcement notice issued by Newark and Sherwood District Council on 6 November 2023.
- The breach of planning control as alleged in the notice is: Without planning permission, operational development consisting of the erection of security cameras mounted on metal posts.
- The requirements of the notice are: (A) Remove the mounted security cameras and associated posts; and (B) Remove from the site any resultant waste.
- The periods for compliance with the requirements are: (A) 90 days after the notice takes effect; and (B) 100 days after the notice takes effect.
- Appeal 3 is proceeding on the grounds set out in section 174(2)(a), (f), (g) of the Act. Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act. Appeal 4 is proceeding on the grounds set out in section 174(2)(f), (g) of the Act.

Summary of Decisions: Appeal 3 is allowed, the notice is quashed, and planning permission is granted in the terms set out below in the Formal Decision. No further action is taken with Appeal 4.

Appeal 5 Ref: APP/B3030/C/23/3334306

Appeal 6 Ref: APP/B3030/C/23/3334307

Land at Fernhill, Hoveringham Road, Caythorpe NG14 7EE

- The appeals are made under section 174 of the Act by Mr Sean Reddington (Appeal 5) and Mrs Nicola Reddington (Appeal 6) against an enforcement notice issued by Newark and Sherwood District Council on 6 November 2023.
 - The breach of planning control as alleged in the notice is: Without planning permission, the erection of an outbuilding.
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- The requirements of the notice are: (A) Demolish the outbuilding including any foundations; and (B) Remove any resultant waste from the land.
- The periods for compliance with the requirements are: (A) 70 days after the notice takes effect; and (B) 90 days after the notice takes effect.
- Appeal 5 is proceeding on the grounds set out in section 174(2)(a), (f), (g) of the Act. Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act. Appeal 6 is proceeding on the grounds set out in section 174(2)(f), (g) of the Act.

Summary of Decisions: Appeal 5 is allowed, the notice is quashed, and planning permission is granted in the terms set out below in the Formal Decision. No further action is taken with Appeal 6.

Appeal 7 Ref: APP/B3030/C/23/3334309

Appeal 8 Ref: APP/B3030/C/23/3334310

Land at Fernhill, Hoveringham Road, Caythorpe NG14 7EE

- The appeals are made under section 174 of the Act by Mr Sean Reddington (Appeal 7) and Mrs Nicola Reddington (Appeal 8) against an enforcement notice issued by Newark and Sherwood District Council on 6 November 2023.
- The breach of planning control as alleged in the notice is: Without planning permission, operational development consisting of the erection of a raised platform area, occupying approximately 348 sqm, finished using timber cladding and containing a swimming pool, measuring approximately 11m by 3m, set into the raised platform described above and a smaller 3m by 1.8m spa pool to the rear of the larger pool.
- The requirements of the notice are: (A) Demolish the raised platform area, occupying approximately 348 sqm, finished using timber cladding and containing two pools and balustrade; and (B) Remove from the site any resultant waste.
- The periods for compliance with the requirements are: (A) 180 days after the notice takes effect; and (B) 210 days after the notice takes effect.
- The appeals are proceeding on the grounds set out in section 174(2)(f), (g) of the Act.

Summary of Decisions: The appeals are dismissed and the enforcement notice is upheld.

Appeal 9 Ref: APP/B3030/C/23/3334313

Appeal 10 Ref: APP/B3030/C/23/3334314

Land at Fernhill, Hoveringham Road, Caythorpe NG14 7EE

- The appeals are made under section 174 of the Act by Mr Sean Reddington (Appeal 9) and Mrs Nicola Reddington (Appeal 10) against an enforcement notice issued by Newark and Sherwood District Council on 6 November 2023.
 - The breach of planning control as alleged in the notice is: Without planning permission, the following operational developments: (a) The erection of a car port type structure; (b) A timber shed adjacent to the western end of the front gates; (c) A timber-framed shed adjacent to the southern boundary of the site; (d) A summer house/children's playhouse; (e) A white painted steel framed pergoda; (f) Black painted pergodas; (g) A spherical glass and timber sun pod on the northern part of the front patio; and (h) 2 white painted steel-framed, open-sided pergodas.
 - The requirements of the notice are: (A) Demolish the car port including any foundations; (B) Demolish timber shed adjacent to the western end of the front gates; (C) Demolish the timber-framed shed adjacent to the southern boundary of the site; (D) Demolish the summer house/ children's playhouse; (E) Remove the white painted steel framed pergoda; (F) Remove the black painted pergodas; (G) Remove the spherical glass and timber sun pod on the northern part of the front patio; (H) and (I) Remove the white painted steel-framed, open-sided pergodas; and (J) Remove any resultant waste from the land.
 - The periods for compliance with the requirements are: (A to I) 70 days after the notice takes effect; and (J) 90 days after the notice takes effect.
 - Appeal 9 is proceeding on the grounds set out in section 174(2)(a), (f), (g) of the Act. Since an appeal has been brought on ground (a), an application for planning permission
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is deemed to have been made under section 177(5) of the Act. Appeal 10 is proceeding on the grounds set out in section 174(2)(f), (g) of the Act.

Summary of Decisions: The appeals are dismissed and the enforcement notice is upheld.

Appeal 11 Ref: APP/B3030/W/23/3334316

Fernhill, Hoveringham Road, Caythorpe, Nottinghamshire NG14 7EE

- The appeal is made under section 78 of the Act against a refusal to grant planning permission.
- The appeal is made by Mr and Mrs S Reddington against the decision of Newark and Sherwood District Council.
- The application Ref is 23/00776/HOUSE.
- The development is: Installation of an outdoor swimming pool and spa.

Summary of Decision: The appeal is dismissed.

Appeal 12 Ref: APP/B3030/W/23/3334318

Fernhill, Hoveringham Road, Caythorpe, Nottinghamshire NG14 7EE

- The appeal is made under section 78 of the Act against a refusal to grant planning permission.
- The appeal is made by Mr and Mrs S Reddington against the decision of Newark and Sherwood District Council.
- The application Ref is 23/00775/HOUSE.
- The development is: Erection of a summer house.

Summary of Decision: The appeal is dismissed.

Appeal 13 Ref: APP/B3030/W/23/3334319

Fernhill, Hoveringham Road, Caythorpe, Nottinghamshire NG14 7EE

- The appeal is made under section 78 of the Act against a refusal to grant planning permission.
- The appeal is made by Mr and Mrs S Reddington against the decision of Newark and Sherwood District Council.
- The application Ref is 23/00774/HOUSE.
- The development is: Reconfiguration and landscaping of the patio area.

Summary of Decision: The appeal is dismissed.

Appeal 14 Ref: APP/B3030/W/23/3334320

Fernhill, Hoveringham Road, Caythorpe, Nottinghamshire NG14 7EE

- The appeal is made under section 78 of the Act against a refusal to grant planning permission.
- The appeal is made by Mr and Mrs S Reddington against the decision of Newark and Sherwood District Council.
- The application Ref is 23/00773/HOUSE.
- The development is: Erection of an outbuilding to the rear of the property.

Summary of Decision: The appeal is allowed.

Appeal 15 Ref: APP/B3030/W/23/3334324

Fernhill, Hoveringham Road, Caythorpe, Nottinghamshire NG14 7EE

- The appeal is made under section 78 of the Act against a refusal to grant planning permission.
- The appeal is made by Mr and Mrs S Reddington against the decision of Newark and Sherwood District Council.
- The application Ref is 23/00772/HOUSE.
- The development proposed is: Erection of a car port.

Summary of Decision: The appeal is dismissed.

Appeal 16 Ref: APP/B3030/W/23/3334325

Fernhill, Hoveringham Road, Caythorpe, Nottinghamshire NG14 7EE

- The appeal is made under section 78 of the Act against a refusal to grant planning permission.
- The appeal is made by Mr and Mrs S Reddington against the decision of Newark and Sherwood District Council.
- The application Ref is 23/00771/HOUSE.
- The development is: Installation of security cameras.

Summary of Decision: The appeal is allowed.

Preliminary Matters

1. Appeals on ground (a) have been withdrawn in Appeals 1 and 7, and limited to the shed marked X on Plan A accompanying the notice in Appeal 9.
2. The notice the subject of Appeals 1 and 2 states it relates to land hatched on the attached Plan A but the land in question is edged red on that plan. The red edged area is evidently the subject of the parties' submissions, so I am satisfied that the notice may be corrected in this respect without injustice.
3. The above descriptions of development in Appeals 11 to 16 are taken from the application forms. The Council's decisions on the applications subject of Appeals 11, 12, 13 and 15 gave fuller or more accurate descriptions of:
 - Appeal 11: Outdoor swimming pool, spa, raised platform area and retaining walls, balustrading and 2 pagodas (retrospective).
 - Appeal 12: Erection of a summer house, installation of soft matting, service shed and timber shed (retrospective).
 - Appeal 13: Reconfiguration and landscaping of patio area including construction of retaining walls, pagoda, pergolas and sun pod (retrospective).
 - Appeal 15: Erection of a car port (part retrospective).

I shall determine those appeals based on these alternative descriptions.

4. Pergola, pagoda and pergoda are alternative descriptions of open-sided incidental domestic structures. I shall use 'pergoda' in this Decision.

APPEALS 1 AND 2: THE CHANGE OF USE

The appeals on ground (b)

5. The appeal site is the part of the lawned area in front of Fernhill that is furthest from the dwelling. It is understood to have previously been in the same ownership as the adjacent dwelling, now known as Harvest Hill Lodge. It was not part of the application site of Fernhill, then known as Fern Hill Cottage, or shown as being in the same ownership, in a proposal to extend the dwelling in 2010¹ ("the 2010 permission"). It was included with Fernhill when the appellants purchased it in January 2020 and therefore appears to have become associated with the dwelling during the preceding 10-year period.

¹ 10/00118/FUL, granted April 2010.

6. The parties agree the site is part of a single planning unit with a primary residential use, to which all other activity is incidental or ancillary. They further agree it is within the residential curtilage of Fernhill.
7. The appellants contend the lawful use of the site is as a paddock and that there has been no material change of use. The only presented evidence of the past use of the site is the Council's interpretation of historic aerial images. It considers that the earliest of these, from 2007, shows signs of entry by horses that were stabled on adjacent land, indicating a paddock in the horse-keeping sense. There is no later evidence of horses on the site, so the claimed paddock use must be taken to have a broader meaning that includes small fields and private grassed areas not in use as domestic gardens.
8. There is no evidence that any horse that may have been on the site in the past was kept for an agricultural purpose and there is no evidence of animal grazing in any of the aerial images post-2007. While some variations in the colour of vegetation appear over the years, none confirm arable use of the site. No other evidence of any previous agricultural use was presented by either party.
9. It therefore appears that the notice incorrectly refers to a previous agricultural use. However, the courts have determined that it is not necessary for a notice to state the previous use of land², so the notice could be corrected in this respect without giving rise to injustice. The courts have also determined that, if there is insufficient information to determine a lawful base use, the question of whether a breach of planning control occurred may still be resolved.³
10. There is no physical barrier or demarcation between the site and the grassed area closer to Fernhill ("the front garden"). Photographs 1 and 2 attached to the notice show the 2 were maintained as a single lawn when it was issued.
11. The Council considers that historic aerial images indicate that the site and the front garden were once separated by a post and rail fence. A 2007 image shows something that might be such a fence, or a small hedge. A line between the site and the front garden can also be seen in a 2010 image but it stops short of the southern boundary. Shadows cast by trees can be seen in this image but there is no comparable shadow where the 2 areas meet, suggesting that any fence or hedge that may have existed in 2007 had been removed.
12. A line can also be seen in images from 2012 and 2017 but the resolution is poor, so it is not clear what it was formed by. However, the contrasting colours in the 2012 image suggest a change in grass cover or mowing regime between the site and the front garden. A 2020 image is clearer, with a faint line suggesting different varieties of grass, perhaps following reseeding or turfing.
13. The site now looks like part of a larger front garden, as shown in photograph 2 attached to the notice. However, it appears to have been grassed for many years and it would be unwise to determine the use of land solely by reference to its appearance or, in this instance, the mowing regime. Matters such as the removal of a fence or hedge, if it occurred, and changing the mowing regime may indicate that a material change of use has occurred. Nevertheless, they are unlikely to have realised such a change of use without some new associated activity.

² *Westminster CC v SSE & Aboro* [1983] JPL 602.

³ *Ferris v SSE* [1998] JPL 777.

14. Apart from photograph 1 attached to the notice, which shows a small portable goal, there is no documentary evidence of recent activity on the site. The only other evidence before me is what the appellants stated in the Hearing, that their children, aged 3 and 5, play football, run, or play tag on the site roughly once a week during summer months. More sustained or frequent activity of that nature seems unlikely, given the distance from the dwelling and the need for young children to be supervised.
15. The occasional summer play described by the appellants does not appear to have made an appreciable difference in the level or character of activity on the site. Neither has it demonstrated an intimate association between the site and the dwelling, despite the parties' agreement on the question of curtilage. Accordingly, the presented evidence of activity leading up to the date when the notice was issued indicates that a material change in the definable character of the use of the appeal site had not occurred.
16. In reaching this view, I recognise that the nature and pattern of activity could change in future, particularly as the children grow older. However, the appeals must be determined according to what has been demonstrated to have occurred, not what there may be potential for.
17. Consequently, the appellants' evidence is sufficient to demonstrate, on the balance of probability, that the alleged change of use of the site to residential use had not occurred as a matter of fact when the notice was issued. The appeals on ground (b) should therefore succeed.

Conclusions

18. For the reasons given above, I conclude that the appeals should succeed on ground (b). Subject to the corrections described above, the enforcement notice will be quashed.
19. In these circumstances, the appeals on ground (c) do not fall to be considered.

APPEALS 3, 4 AND 16: THE SECURITY CAMERAS

Appeal 3 – the appeal on ground (a) and Appeal 16

20. The main issues in these appeals are:

- Whether the pole-mounted security cameras are inappropriate development in the Green Belt ("the GB").
- The effect on the openness and purposes of including land in the GB.
- The effect on landscape character.
- The effect on the living conditions of nearby residential occupiers regarding privacy.
- The effects on security and the wellbeing of the appellants.
- If they are inappropriate development, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations so as to amount to the very special circumstances required to justify the proposal.

Reasons

Inappropriate development

21. The pole mounted cameras are buildings for the purposes of this assessment. Other than specified exceptions a) to g) in paragraph 154 of the National Planning Policy Framework ("the Framework"), the erection of a building is inappropriate development in the GB. Inappropriate development should not be approved in the GB except in very special circumstances.
22. Exception c) is the extension or alteration of a building if it does not result in disproportionate additions over and above the size of the original building. The parties agree the cameras are within the curtilage of Fernhill, but only the appellants consider them to be an extension or alteration of the original building, meaning the dwelling prior to implementation of the 2010 permission.
23. The courts have determined that a building within the GB may readily be considered an extension of another building even though they are not physically connected. In expressing that view, the court stated it is not artificial to describe domestic garages or other outbuildings as extensions of the principal dwellinghouse.⁴
24. In this instance, the distances between the original building and the cameras are significant, over 50 and 140 m respectively. If the reconfigured patio, the raised platform and the car port were treated as extensions to the original building, the cameras would still be more than 20 and 100 m away. Having regard to those distances and being mindful that freestanding pole mounted security cameras would not normally be considered a domestic adjunct, I do not find them to be extensions or alterations to the original building.
25. No other exception within paragraph 154 has been identified and accordingly, the pole mounted cameras are inappropriate development in the GB.

The openness and purposes of including land in the GB

26. While the pole mounted cameras are tall, they are not bulky and have very small footprints. These factors limit their effect on the openness of the GB in spatial terms.
27. In visual terms, both stand close to boundary hedges that include trees, limiting opportunities to see them from outside the site, although they may be more visible when trees and hedges are not in leaf. A gap in the hedge on the northern boundary may also afford glimpses of one of the cameras from Hoveringham Road, albeit from a distance and across other land.
28. No conflict with any of the purposes of including land within the GB has been identified. Having regard to the factors set out above, the harm to the openness of the GB is minor.

Landscape character

29. The site is within the Gunthorpe and Hoveringham Village Farmlands Policy Zone ("the PZ"), part of the Trent Washlands identified in the Newark and Sherwood Landscape Character Assessment Supplementary Planning

⁴ *Warwick DC v SSLUHC, Mr J Storer & Mrs A Lowe* [2022] EWHC 2145 (Admin)

Document. Core Policy 13 of the Newark and Sherwood Local Development Framework Amended Core Strategy ("the CS") expects new development to positively address the implications of the PZ to ensure that the landscape is protected and enhanced.

30. The PZ is a flat landscape dominated by intensive arable farming with varied hedgerows, often tall and bushy, such as those around the site. The pole mounted security cameras are, by their nature, functional and their scale, form, mass, layout, design, materials and detailing do not reflect the distinctiveness of the PZ. Nevertheless, they are modest features which are, at most, a minor distraction from the landscape, which is thereby not fully protected and not enhanced.

Living conditions

31. While the cameras are intended to overlook Fernhill and its grounds, they could be angled toward the neighbouring dwelling. However, it is agreed this could be avoided by imposition of a condition requiring the submission and approval of a scheme for CCTV coverage, including the direction and angle of cameras.
32. Loudspeakers mounted on the poles are intended to warn an intruder that they have been seen. Accordingly, they would only operate rarely and any effect on the living conditions of neighbours would thus be minimal. The Council no longer expresses concern in this regard.
33. Subject to the condition, there would be no adverse effect on the amenities of neighbouring users through loss of privacy and the cameras would thus comply with policies DM5 and DM6 of the Newark and Sherwood Local Development Framework Allocations and Development Management Development Plan Document ("the ADMDPD") in that respect.

Security and wellbeing

34. The cameras were installed in response to burglaries, on the advice of a security contractor. The contractor did not recommend any other options to address the issue. The cameras therefore make an important contribution to the appellants' peace of mind and their family's safety, particularly as they sometimes need a relative to stay with their children when they travel for work. In view of these facts, the cameras amount to appropriate mitigation against crime and disorder and accord with policy DM5 in that respect.

Whether very special circumstances justify the development

35. While the harm to the openness of the GB through inappropriate development is minor, it must be given substantial weight. The failure to fully protect or enhance landscape carries moderate weight. On the other hand, I afford substantial weight to the security benefits of the cameras and significant weight to the resultant benefits to the wellbeing of the appellants and their family. In the circumstances of this case, I find that the stated benefits clearly outweigh the harm I have identified. Accordingly, and despite the conflict with Spatial Policy 4B of the CS and Part 13 of the Framework, those benefits constitute very special circumstances that justify the retention of the cameras.

Conditions

36. Condition 1, which lists the approved drawings, is necessary to confirm the details of the development to be permitted. Condition 2 is necessary to ensure the cameras do not have any adverse effect on the living conditions of neighbours through loss of privacy.

Appeal 3 ground (a) and Appeal 16 - conclusions

37. Notwithstanding the conflict with Spatial Policy 4B of the CS, the cameras comply with policies DM5 and DM6 of the ADMDPD. Subject to the imposition of the necessary conditions, I find that they accord with the development plan as a whole and are acceptable. I shall therefore grant planning permission for the development described in the notice and as applied for.
38. In these circumstances, the appeals on grounds (f) and (g) do not fall to be considered, so I shall take no further action in respect of Appeal 4.

APPEALS 5, 6 AND 14: THE GYMNASIUM OUTBUILDING

Appeal 5 – the appeal on ground (a) and Appeal 14

39. The main issues in these appeals are:

- Whether the outbuilding is inappropriate development in the GB.
- The effect on the openness and purposes of including land in the GB.
- The effect on landscape character.
- The effect on the wellbeing of the appellants.
- If it is inappropriate development, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations so as to amount to the very special circumstances required to justify the proposal.

Reasons

Inappropriate development

40. While their written submissions suggested the gymnasium is associated with outdoor sport or recreation, the appellants did not seek an exception by reason of paragraph 155e) of the Framework in the Hearing. As previously noted, the erection of a building is inappropriate development in the GB unless one of the specified exceptions a) to g) in paragraph 154 of the Framework applies. Inappropriate development should only be approved in the GB in very special circumstances.
41. Exception c) is the extension or alteration of a building if it does not result in disproportionate additions over and above the size of the original building. The outbuilding is within the rear garden of the dwelling and sufficiently close to be treated as an extension to the original building.
42. Prior to implementation of the 2010 permission, the original building had a footprint of approximately 60 sq m. As a result of that permission and subsequent approvals, the footprint has grown to approximately 248 sq m. If

assessed solely in terms of footprint, such a fourfold increase would most likely be viewed as disproportionate additions. However, a significant part of the extended dwelling is single storey, albeit with roof terraces, and the volumetric growth has therefore been less, although still greater than the original volume.

43. Taking these factors into account, the permitted extensions to the original building exceed what can reasonably be viewed as proportionate, a point recorded in decisions as long ago as 2012.⁵ Despite its relatively small footprint of 13 sq m and volume of 61 cu m, the addition of the outbuilding has increased the cumulative disproportionality.
44. For these reasons, the outbuilding is inappropriate development in the GB.

The openness and purposes of including land in the GB

45. In spatial terms, and recognising its relatively small scale, akin to a double garage, and subservience to the dwelling, the effect of the outbuilding on the openness of the GB is limited. Nevertheless, it adds to an already significant quantum of extensions to the original building. In visual terms, the effect on the openness of the GB is less significant because the outbuilding stands within a small and well enclosed back garden area and is not readily apparent from adjacent land.
46. The Council considers the building to represent an unacceptable encroachment into the countryside, contrary to 1 of the 5 purposes of including land within the GB. However, and having regard to its siting in an enclosed back garden area and proximity to the dwelling, I do not agree.
47. For these reasons, while there is harm to the openness of the GB, it is minor.

Landscape character

48. While the outbuilding is an additional domestic feature in the landscape of the PZ, it is appropriate in design terms to its setting within the enclosed back garden area. The wording of the development plan does not preclude new domestic structures and no specific inconsistency with the landscape conservation and enhancement aims for the PZ has been identified.
49. Because the outbuilding is not apparent from any public viewpoints, the rural character of the landscape is protected and there is no conflict with Core Policy 13 of the CS or policy DM5 of the ADMDPD.

Wellbeing

50. Access to gyms and sports facilities was restricted during the Covid-19 pandemic but that can no longer provide a justification for development. Nevertheless, I appreciate that physical exercise is important to the appellants' wellbeing and that it is convenient for them to do so at home.

Other matters

51. The appellants contend that the fallback of a building permitted by Article 3 and Class E of Part 1 of Schedule 2 to the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) ("Class E" of "the

⁵ Appeal APP/B3030/D/12/2180180, allowed 19 October 2012.

Order”) should weigh in favour of the development. For such a fallback to be a material consideration it does not have to be probable or even have a high chance of occurring; it need only be more than a merely theoretical prospect.⁶

52. Article 3(5) of the Order states that a permission it grants cannot apply to an existing building if the building operations involved in the construction of that building were unlawful. Accordingly, the fallback would entail the replacement of the current outbuilding with one that is permitted by Class E. This could be a similar building in the same position, but with a maximum height some 300 mm lower, or the same height but sited not less than 2 m from any boundary.
53. In both scenarios, the effects of the replacement building on the openness of the GB and on landscape character would be identical or very similar to those of the unauthorised outbuilding.

Whether very special circumstances justify the development

54. The identified minor harm to the openness of the GB must be given substantial weight. The absence of an adverse impact on landscape character is a neutral factor that does not count for or against the development. I afford little weight to the effect on the appellants’ wellbeing in view of the current availability of gyms and sports facilities and because a past event cannot justify granting permission now.
55. Considering the extent of development the appellants had capacity to carry out at Fernhill in a relatively short period, the identified fallback options must be more than theoretical. I therefore afford substantial weight to them. Given that they would have identical or very similar effects to the unauthorised outbuilding, I find that these fallbacks clearly outweigh the harm I have identified. Accordingly, and despite the conflict with Spatial Policy 4B of the CS and Part 13 of the Framework, the fallback constitutes very special circumstances that justify the retention of the outbuilding.

Conditions

56. Condition 1, which lists the approved drawings, is necessary to confirm the details of the development to be permitted.
57. The Council suggests a 2nd condition under which any development permitted by Classes A to E of Part 1 and Classes A and B of Part 2 of Schedule 2 to the Order would require an express grant of planning permission.
58. The stated reason for the suggested condition is to retain control over the specified forms of development in the interest of residential amenity. However, no evidence of any existing or potential adverse effect on the living conditions of any neighbour has been identified.
59. Notwithstanding that, Classes A, B, D and E of Part 1 allow for the enlargement of the dwelling. As the gym is further to permitted extensions that are disproportionate additions to the original building, the suggested condition is reasonably necessary to avoid harm to the openness of the GB.
60. Classes A and B of Part 2 relate to the erection, construction, maintenance, improvement or alteration of a gate, fence, wall or other means of enclosure

⁶ *Schneck v SSHCLG & West Berkshire DC* [2022] EWHC 3335 (Admin).

and to a new means of access to a highway respectively. No evidence that those forms of development are relevant to the outbuilding has been provided, so this aspect of the suggested condition is unnecessary.

Appeal 5 ground (a) and Appeal 14 - conclusions

61. For the reasons given above, I conclude that Appeal 5 should succeed on ground (a). I shall grant planning permission for the development as described in the enforcement notice, which will be quashed. For the same reasons, Appeal 14 should be allowed.
62. In these circumstances, the appeals on grounds (f) and (g) do not fall to be considered, so I shall take no further action in respect of Appeal 6.

APPEALS 7, 8 AND 11 (EXCLUDING PAGODAS): THE OUTDOOR SWIMMING POOL, SPA, RAISED PLATFORM AREA, RETAINING WALLS AND BALUSTRADING

Appeal 11 (excluding pagodas)

63. The main issues in this appeal are:

- Whether the raised platform, swimming pool, spa, retaining walls and balustrading are inappropriate development in the GB.
- The effects on the openness and purposes of including land in the GB.
- The effects on landscape character.
- The risk of flooding and effect on flood risk elsewhere.
- The effects on the wellbeing of the appellants.
- If any aspect is inappropriate development, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations so as to amount to the very special circumstances required to justify the proposal.

Reasons

Inappropriate development

64. The structures combine to form a single entity, which is a building for the purposes of this assessment. In their statement, the appellants contend that, because it includes the outdoor swimming pool, the building is not inappropriate development by reason of paragraph 154b) of the Framework. This states that buildings in connection with "the existing use of land or a change of use" for, among other things, outdoor sport and outdoor recreation are not inappropriate. That is subject to the proviso that they preserve the openness of the GB and do not conflict with the purposes of including land within it. No other use of land identified in paragraph 154b) is claimed.
65. In the Hearing, when asked whether the outdoor sport or recreation use is separate from the residential use of the dwelling, the appellants indicated that they consider the 2 to be associated. To benefit from the relevant exception provided by paragraph 154b), the land in question must be in outdoor sport or outdoor recreation use, or such a use must be proposed for it. While the

swimming pool may be used for outdoor activity of a sporting or recreational nature, it is a private facility within the curtilage of the dwelling. Any activity within the pool must therefore be incidental to the residential use of the dwelling, not separate from it. The exception provided by paragraph 154b) therefore does not apply.

66. Even if it were accepted that the pool serves an outdoor sporting or outdoor recreational use, it occupies a relatively small part of the building. The surrounding platform, with domestic features including an outdoor kitchen, sun loungers and pergolas, is considerably larger. In this scenario, the building would be in a mixed residential and outdoor sporting/outdoor recreational use that the exception provided by paragraph 154b) does not apply to. Even if the building were held to be in outdoor sporting/recreational use, it would still be necessary to consider its effect on the openness of the GB and the purposes of including land within it.
67. The building including the swimming pool has a volume of 580 cu m and a footprint of 353 sq m. Those figures are indicative of a significant new building in the GB. Observation of the building confirms that it does not preserve the openness of the GB in spatial terms. While the building is low-lying, and thus not readily apparent from beyond the site, it nevertheless also has a significant effect on openness in visual terms.
68. The building, the adjacent patio, and the dwelling appear as a combined structure when viewed. Accordingly, it is appropriate to consider whether the exception provided by paragraph 154c) of the Framework applies. This is the extension or alteration of a building provided that it does not result in disproportionate additions over and above the size of the original building. As previously noted, the original building had a footprint of 60 sq m and had grown to approximately 248 sq m prior to the appellants' interest in the land. There can be no doubt that a further 580 cu m or 353 sq m would increase the cumulative disproportionality of extensions, so the exception does not apply.
69. For these reasons, the building is inappropriate development within the GB.

The openness and purposes of including land in the GB

70. The effects on openness are as recorded above in assessment against the exceptions provided by paragraph 154b) and c) of the Framework. No conflict with any of the purposes of including land within the GB has been identified.
71. The appellants point out that cars used to be parked on a turning circle where the building is now. However, I am not convinced that parking domestic vehicles, which is transient by nature, can be reasonably compared to the erection of a building in terms of the effect on openness of the GB. In any event, it has not been shown that the erection of the building has reduced car parking at Fernhill, which is most likely to have been displaced. Therefore, if I were to take the effect of vehicle parking into consideration, the effect of the building would be in addition to it, not instead of.
72. For the reasons given, the building has a notable and adverse effect on the openness of the GB and is therefore inappropriate development, which is harmful by definition.

Landscape character

73. As previously noted, the PZ is a flat landscape dominated by intensive arable farming with varied hedgerows, often tall and bushy. Within this area, and within the enclosed curtilage of the dwelling, the low-lying building is not apparent from any public viewpoints.
74. While the development plan's policies do not preclude domestic structures within the PZ, the scale, form, mass, layout, design, materials and detailing of the building do not meet normal expectations of incidental domestic structures. While there may be greater scope for such development within urban areas, there is a clear failure to reflect the distinctiveness of the rural landscape character of the PZ.
75. Accordingly, there is an adverse effect on landscape character, contrary to Core Policy 13 of the CS and policy DM5 of the ADMDPD.

The risk of flooding and effect on flood risk elsewhere

76. The building is within Flood Zone 3b, comprising the functional floodplain of the Trent. The submitted flood risk assessment (FRA) indicates that the building would only increase flooding within the local floodplain by 1.6 mm at most, potentially less given the wider extent of the floodplain.
77. While that may be correct in the context of a large-scale flooding event, involving the entire floodplain, the FRA does not assess the likely effect of the building in a more localised flood event. It is therefore not known where, and with what effect, the building would displace flood water in such a scenario.
78. It has therefore not been demonstrated that flood risk has not been increased elsewhere or that there would be no unacceptable impact in run-off into surrounding areas in a localised flood event.
79. For these reasons, there is conflict with Core Policy 10 of the CS, policy DM5 of the ADMDPD, and Part 14 of the Framework and the building is unacceptable in terms of flood risk.

Wellbeing

80. The swimming pool and ancillary structures facilitate private exercise and relaxation from demanding work, which benefit the appellants' wellbeing. However, a need that might outweigh the identified harm to the openness of the GB and to flood risk has not been shown.
81. The building is within the agreed residential curtilage of the dwelling, so the appeal site would be available for domestic relaxation without it. The swimming pool and spa allow for additional relaxation and the former provides an opportunity for exercise, with attendant benefits. However, no evidence was presented about access to swimming pools in the area, so it has not been demonstrated that such benefits can only be realised by retaining the building.

Other matters

82. In the Hearing it was stated that the erection of the raised platform had contributed to the local economy. However, that benefit has already been

achieved and granting planning permission would not add to it. Consequently, I do not afford weight to this matter.

Whether very special circumstances justify the development

83. The identified harm to the openness of the GB must be given substantial weight. I also attach significant weight to flood risk in a localised event, which has not been demonstrated to be mitigated successfully, and to the harm to the rural landscape character.
84. While I recognise the benefits of the building to the appellants and their growing family, I can only afford limited weight to this in the balance. That weight does not clearly outweigh the identified harm to the GB and the landscape and in terms of flood risk, reflected in the conflict with Spatial Policy 4B and Core Policy 10 of the CS and Parts 13 and 14 of the Framework. The very special circumstances required to justify inappropriate development in the GB therefore do not exist and the appeal must fail.

Appeals 7 and 8 – the appeals on ground (f)

85. The parties agree that the purpose of the notice is to remedy the breach of planning control and to remedy any injury to amenity it causes, although the former naturally leads to the latter. While the appeal form stated that the entire removal of the platform and the associated items would be excessive, no lesser steps that would achieve the purpose of the notice have been identified.
86. The balustrading does not feature in the description of the matters constituting the breach of planning control, but step A includes a requirement that it is removed. While the step might therefore be considered excessive, the balustrade is an integral part of the structure and could not be retained in isolation. As such, there is no need to vary the notice in this respect.
87. For these reasons, the appeals on ground (f) must fail.

Appeals 7 and 8 – the appeals on ground (g)

88. The appellants do not suggest more time would be needed to carry out the work required to comply with the notice. However, as a rough estimate, they believe compliance could cost up to £200,000, largely due to the need to remove services associated with the pools. They consider a 12-month period is reasonable, to allow the necessary funds to be raised in advance.
89. The Council indicated that this longer period may be reasonable, considering financial hardship. Nevertheless, I am mindful that allowing the development to remain for 12 months would be tantamount to granting a limited period planning permission and could cast doubt on the expediency of issuing the notice. In view of the harm to the openness of the GB, and as the effect on localised flooding is unknown, it would be unwise to extend the period for compliance on the strength of limited and untested financial evidence.
90. In reaching this view, I am aware that, if appropriate evidence were presented and tested, it would be open to the Council to extend the periods for compliance under powers conferred by section 173A(1)(b) of the Act. That would, however, be a matter entirely for the Council's discretion.
91. For these reasons, the appeals on ground (g) must fail.

Appeals 7 and 8 – conclusions

92. For the reasons given above, I conclude that the appeals should not succeed. I shall uphold the enforcement notice.

APPEALS 9, 10, 11 (PERGODAS ONLY), 12, 13 AND 15: SHED X/TIMBER SHED, CAR PORT, SERVICE SHED, SUMMER HOUSE/CHILDREN'S PLAYHOUSE, SOFT MATTING, RECONFIGURATION AND LANDSCAPING OF THE PATIO AREA INCLUDING CONSTRUCTION OF RETAINING WALLS, PERGODAS AND SUN POD

Appeal 9 – the appeal on ground (a) and Appeals 11 (pergudas only), 12, 13 and 15

93. Shed X is the timber shed forming part of the development the subject of Appeal 12. The appeal on ground (a) in Appeal 9 is limited to this building.

94. The main issues in these appeals are:

- In each case, whether shed X/the timber shed, the car port, the service shed, the summer house/children's playhouse, the soft matting, and the reconfiguration and landscaping of patio area including construction of retaining walls, pergudas and the sun pod is inappropriate development in the GB.
- The effects on the openness and purposes of including land in the GB.
- The effects on landscape character.
- The risk of flooding and effect on flood risk elsewhere.
- The effects on the wellbeing of the appellants.
- If any aspect is inappropriate development, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations so as to amount to the very special circumstances required to justify the proposal.

Reasons

Inappropriate development

95. Shed X/the timber shed is sited well over 150 m away from the dwelling and is also set apart from the other operational development in these appeals. It is therefore, as a matter of fact and degree, not an extension or alteration to another building, to which paragraph 154c) of the Framework might apply. No other exception from paragraph 154 has been suggested and the shed is therefore inappropriate development in the GB.

96. The car port may be considered a normal domestic adjunct and its distance from the dwelling is not unusual for such an outbuilding or in the context of the site. It would therefore benefit from the exception given by paragraph 154c) of the Framework if it does not result in disproportionate additions over and above the size of the original building. However, as already noted, the cumulative growth of the dwelling prior to the further development the subject of these appeals had already resulted in disproportionate additions to the

- original building. Accordingly, the car port can only increase that disproportionality and is therefore inappropriate development in the GB.
97. No other exception from paragraph 154 has been suggested and the car port is therefore inappropriate development in the GB.
98. The service shed, summerhouse/children's playhouse and soft matting are between some 40 and 50 m from the front wall of the dwelling, sited beyond the patio and the platform area, and set within the front garden. They are close to one of the security cameras, which I have found to not be an extension to the original building. However, unlike the security cameras, they may all normally be considered domestic adjuncts. They are sited on land that has long been a garden associated with the dwelling and have no functional need to be located closer to the dwelling.
99. Considering these factors, all 3 may reasonably be viewed as extensions to the original building. However, as already noted, previous extensions and alterations have resulted in disproportionate additions to the original building. Accordingly, they result in greater disproportionality and are therefore inappropriate development in the GB.
100. The reconfigured patio area, the pergolas and sun pod appear as part of a combined structure also comprising the dwelling and the raised platform. Consequently, the alteration to the patio is an alteration to the original building for the purposes of this assessment. The pergolas and sun pod are permanent features that are integral to the design of the reconfigured patio. Accordingly, they should also be viewed as further additions to the original building.
101. Comparison of existing and proposed plans and cross-sections show that the reconfiguration of the patio has included its enlargement, extending over land that was previously part of a turning circle for vehicles. The enlarged part of the patio, the pergolas and sun pod, while relatively small within the context of the whole patio, nevertheless increase the disproportionate additions to the original building. They are therefore inappropriate development in the GB.

The openness and purposes of including land in the GB

102. In view of the modest scale of shed X/the timber shed, it has little impact on the openness of the GB in spatial terms. Owing to its siting in a corner formed by the front boundary wall and the entrance gates and under the canopy of a tree, the effect in visual terms is minimised. No conflict with any of the purposes of including land within the GB has been identified.
103. For these reasons, while the shed has an adverse effect on the openness of the GB, and is therefore harmful by definition, that harm is limited.
104. The car port is an open-sided structure and would remain so if completed. Nevertheless, the addition of the roof would increase its visibility and the perception of built form in the GB. This would be apparent from a public footpath in the adjacent field because the car port stands where there is a gap in the hedgerow. The completion of the car port would therefore adversely affect the openness of the GB in spatial and visual terms.

105. For these reasons, the car port would have a significant adverse effect of the on the openness of the GB, although no conflict with any of the purposes of including land within the GB has been identified.
106. The service shed, summerhouse/children's playhouse and soft matting are relatively small structures of an incidental domestic nature. The summerhouse/playhouse and the service shed have moderate adverse effects on the openness of the GB in spatial terms. They have limited adverse effects in visual terms because they adjoin a boundary hedge and are not readily apparent from nearby land. The soft matting is set at ground level and therefore it has a limited adverse effect on the openness of the GB in spatial terms and a neutral effect in visual terms.
107. For these reasons, while the adverse effects on the openness of the GB are harmful by definition, it is limited.
108. The reconfiguration of the patio and erection of the pergolas and sun pod have made a significant increase in the perceived bulk of the combined structure they form part of. The GB calculations submitted with the application the subject of Appeal 13 state there has been a 6% decrease in external footprint and a 55% increase in floor space. While it may be difficult to reconcile those figures, an FRA calculates the net effect of the reconfiguration to be an additional 222 cu m of built form.
109. Accordingly, and while the patio, pergolas and sun pod may not be readily apparent from other land, their volumetric growth has a moderate adverse effect on the openness of the GB in spatial terms. They are therefore inappropriate development, which is harmful by definition.

Landscape character

110. Shed X/the timber shed is within the agreed domestic curtilage of Fernhill and is not apparent from any public viewpoints within the PZ. Any effect it may have on the rural character of the landscape is thus limited. There is no reason in principle why a small domestic outbuilding cannot be compatible with the protection and enhancement of the rural landscape of the PZ. Viewed in this context, the shed adequately reflects what should reasonably be expected of a domestic outbuilding in reflecting the distinctiveness of the rural landscape.
111. Accordingly, there is no adverse effect on landscape character and no conflict with Core Policy 13 of the CS and policy DM5 of the ADMDPD.
112. The visibility of the roof of the car port in views from the nearby public footpath means it would be prominent in the rural landscape of the PZ. While it does not appear to be a characteristic feature in landscape terms, the completed car port would be a modest structure, appropriate to its domestic setting. This would serve to limit the harm it would cause to landscape character by reason of its form and design.
113. The adverse effect on landscape character and conflict with Core Policy 13 of the CS and policy DM5 of the ADMDPD is therefore moderate.
114. The service shed, summerhouse/children's playhouse and soft matting are within the agreed domestic curtilage of Fernhill and are not apparent from any public viewpoints within the PZ. For the same reasons given in the assessment

of shed X/the timber shed, they reflect what might reasonably be expected of incidental domestic structures in reflecting the distinctiveness of the rural landscape.

115. Accordingly, they have no adverse effect on landscape character and do not conflict with Core Policy 13 of the CS and policy DM5 of the ADMDPD.
116. The reconfiguration of the patio and the erection of the pergolas and sun pod do not, in terms of their scale, form, mass, layout, design, materials and detailing, meet normal expectations of incidental domestic structures. While there may be greater scope to assimilate such development within urban areas, there is a clear failure to reflect the distinctiveness of the rural landscape character of the PZ.
117. Accordingly, and taking account of the pre-existing patio, there is a moderate adverse effect on landscape character, contrary to Core Policy 13 of the CS and policy DM5 of the ADMDPD.

The risk of flooding and effect on flood risk elsewhere

118. Shed X/the timber shed is within Flood Zone 3b, an area at high risk of flooding comprising the functional floodplain of the Trent. Paragraph 173 and footnote 59 of the Framework confirm that a site-specific flood risk assessment should be provided for all development in Flood Zones 2 and 3. The shed is not considered in any FRA, and it has therefore not been demonstrated that the risk of flooding and its effect on flood risk elsewhere are acceptable.
119. The Environment Agency's comments on the application the subject of Appeal 12 indicate that a shed used for domestic storage may be viewed as 'less vulnerable' in the event of a flood. However, it is also necessary to consider the shed's likely effect on flooding elsewhere. Applying the reasoning of the FRA relating to the raised platform the subject of Appeal 11 to this shed, it is unlikely to have any appreciable effect on flood levels in an event affecting the wider floodplain. However, as with that appeal, the effect in the event of localised flooding, in which water may be displaced to nearby land and buildings, is unknown.
120. Accordingly, it cannot be ensured that surface water run-off is positively managed or that flood risk is not increased elsewhere. The development is therefore in conflict with Core Policies 9 and 10 of the CS and policy DM5 of the ADMDPD and is unacceptable. However, and in view of the shed's limited volume, I afford this limited weight.
121. The Council has withdrawn its objection to the car port on flood risk grounds on the further advice of the Environment Agency, subject to an agreed condition to ensure that it remains open sided if permission were granted. Subject to the imposition of that condition, the car port would accord with Core Policies 9 and 10 of the CS and policy DM5 of the ADMDPD and is thus acceptable in this respect.
122. The Council's objection to the service shed, summerhouse/children's playhouse and soft matting on flood risk has also been withdrawn. It considers that any permission should be unconditional in respect of this ground. These elements therefore accord with Core Policies 9 and 10 of the CS and policy DM5 of the ADMDPD and are acceptable in this regard.

123. The Council maintains its opposition to the reconfiguration of the patio and the erection of the pergolas and sun pod over concern that floodplain storage has been lost. They are within Flood Zone 3, straddling the boundary between Zones 3a and 3b, the latter being functional floodplain.
124. The pergolas are open sided structures, so any effect they have in isolation must be minimal. They and the sun pod stand on the patio, so flood water could only reach them in an event so significant that their further contribution to flooding would be negligible. Nevertheless, they form part of a combined structure that must be assessed as a single entity.
125. The reconfiguration of the patio includes its extension over land that formed part of a turning circle for vehicles, which used to be lower. This additional raised area is within Flood Zone 3b, the functional floodplain. As previously recorded, the net effect of the reconfiguration is an additional 222 cu m of built form, which causes the same volume of floodplain storage to be lost.
126. The FRA concludes that the reconfiguration would only increase flooding within the local floodplain by 1.4 mm at most, potentially less given the wider extent of the floodplain. However, for the reasons explained in respect of the raised platform, this does not give comfort in respect of a localised flood event. It is therefore not known where, and with what effect, the reconfigured patio would displace flood water in such a scenario. It has therefore not been demonstrated that flood risk has not been increased elsewhere or that there would be no unacceptable impact in run-off into surrounding areas in a localised flood event.
127. For these reasons, there is conflict with Core Policy 10 of the CS and Part 14 of the Framework. The reconfigured patio is unacceptable in terms of flood risk, and I afford this significant weight.

Wellbeing

128. In the Hearing, the appellants indicated that shed X/the timber shed was recommended by their security consultant, as a place for deliveries to be left without the need to approach the dwelling. However, it was apparent at the site visit that this role is performed by another shed, which stands outside the front gates and is not the subject of any of these appeals.
129. While the appellants' statement of case indicates the car port is essential to them, because of fear of crime and extortion, it has not been explained what security benefit an open-sided building could provide.
130. The summerhouse/children's playhouse and soft matting facilitate outdoor play, which is important to the appellants' children. While that is understood, and the loss of these facilities would undoubtedly be upsetting, it has not been demonstrated that reasonable opportunities for outdoor play would not exist if they were not there. Accordingly, I cannot afford more than moderate weight to this consideration.
131. The service shed is the appellants' only facility for outside storage of toys and bicycles. It is therefore beneficial to them although, as the Council points out, it could be located elsewhere, including in the back garden, which is at lower risk of flooding. For that reason, I only afford moderate weight to the wellbeing benefits of this element.

132. The reconfigured patio and the pergodas and sun pod enhance the appellants' experience of spending leisure time at home. I afford moderate weight to this.

Whether very special circumstances justify the development

133. The identified harm to the openness of the GB must be given substantial weight. This harm is significant in respect of the car port and moderate in respect of the reconfigured patio, pergodas and sun pod. It is limited in respect of shed X/the timber shed and the summerhouse/children's playhouse and soft matting.
134. I attach significant weight to flood risk in a localised event, which has not been demonstrated to be mitigated successfully, in respect of the reconfigured patio. However, by reason of its comparatively small volume, I attach limited weight to the contribution to flood risk of shed X/the timber shed. The absence of harm through flood risk arising from the car port (subject to the agreed condition) and the service shed, summer house/playhouse and soft matting is a neutral factor and does not weigh in favour of any element.
135. The harm to the rural landscape character resulting from the car port and the patio, pergodas and sun pod carries moderate weight. The absence of landscape harm arising from shed X/the timber shed, the service shed, summer house/playhouse, and soft matting is a neutral factor and does not weigh in favour of any element.
136. For the reasons set out earlier, I do not afford any weight to the claimed security benefits of shed X/the timber shed or the car port. I attach moderate weight to the benefits that the service shed, the summerhouse/playhouse and the soft matting bring to the appellants and their family. That moderate weight does not, however, clearly outweigh the identified harm to the GB, reflected in the conflict with Spatial Policy 4B of the CS and Part 13 of the Framework. The very special circumstances required to justify inappropriate development in the GB therefore do not exist.
137. I also attach moderate weight to the wellbeing benefits of the reconfigured patio, the pergodas and the sun pod. It does not, however, clearly outweigh the identified harm to the GB and the landscape and in terms of flood risk, reflected in the conflict with Spatial Policy 4B and Core Policy 10 of the CS, policy DM5 of the ADMDPD, and Parts 13 and 14 of the Framework. The very special circumstances required to justify inappropriate development in the GB therefore do not exist.
138. For these reasons, the appeal on ground (a) in Appeal 9 and Appeals 11, 12, 13 and 15 all must fail.

Appeals 9 and 10 – the appeals on ground (f)

139. It is agreed that the purpose of the notice is to remedy the breach of planning control and to remedy any injury to amenity it causes.
140. The grounds of appeal state that it is excessive to require "the entire removal" as it would leave the appellants without a place for positive wellbeing and fitness. However, the notice does not require removal of the reconfigured patio, but the pergodas and sun pod sited on it. Therefore, compliance with the

notice would leave a space available for positive wellbeing and fitness if the appellants wish to use it that way.

141. In the Hearing, the appellants suggested that items which the notice requires to be removed could be painted a different colour instead. While that might make them less noticeable, and so may reduce injury to amenity, it would not remedy the breach of planning control. Nor would it obviate the effects on openness of the GB in spatial terms or on flood risk.

142. For these reasons, the appeals on ground (f) must fail.

Appeals 9 and 10 – the appeals on ground (g)

143. The appellants contend that the 70-day period given for demolition or removal of items and the further 20 days to remove any resultant waste is unreasonable. In the Hearing, they explained that 6 months would allow them to consider alternative options and to take the matter up with a contractor who had advised that planning permission was not required.

144. No alternative options were articulated, so it is not clear why any of them might require longer than the periods allowed by the notice. As to the discussion with the contractor, no reason was given as to why it would be necessary to retain the development in question while that took place.

145. For these reasons, the appeals on ground (g) must fail.

Appeals 9 and 10 – conclusions

146. For the reasons given above, I conclude that the appeals should not succeed. I shall uphold the enforcement notice and refuse to grant planning permission on the application relating to shed X deemed to have been made under section 177(5) of the Act.

FORMAL DECISIONS

Appeals 1 and 2

147. It is directed that the notice is corrected in section 2 by the deletion of the word “hatched” and the substitution of the words “edged red.”

148. It is further directed that the notice is corrected in section 3 by the deletion of the words “from agricultural use.”

149. Subject to the corrections, the appeals are allowed and the enforcement notice is quashed.

Appeals 3 and 4

150. Appeal 3 is allowed, the enforcement notice is quashed and planning permission is granted on the application deemed to have been made under section 177(5) of the Act for the development already carried out, namely the erection of security cameras mounted on metal posts at land at Fernhill, Hoveringham Road, Caythorpe NG14 7EE, as shown on the plan attached to the notice and subject to the conditions set out in the attached schedule.

151. Since Appeal 3 has succeeded on ground (a), no further action will be taken with Appeal 4.

Appeals 5 and 6

152. Appeal 5 is allowed, the enforcement notice is quashed and planning permission is granted on the application deemed to have been made under section 177(5) of the Act for the development already carried out, namely the erection of an outbuilding at land at Fernhill, Hoveringham Road, Caythorpe NG14 7EE, as shown on the plan attached to the notice and subject to the conditions set out in the attached schedule.

153. Since Appeal 5 has succeeded on ground (a), no further action will be taken with Appeal 6.

Appeals 7 and 8

154. The appeals are dismissed and the enforcement notice is upheld.

Appeals 9 and 10

155. The appeals are dismissed and the enforcement notice is upheld.

Appeal 11

156. The appeal is dismissed.

Appeal 12

157. The appeal is dismissed.

Appeal 13

158. The appeal is dismissed.

Appeal 14

159. The appeal is allowed and planning permission is granted for the erection of an outbuilding to the rear of the property at Fernhill, Hoveringham Road, Caythorpe, Nottinghamshire NG14 7EE in accordance with the terms of the application, Ref 23/00773/HOUSE and the plans submitted with it, subject to the conditions in the attached schedule.

Appeal 15

160. The appeal is dismissed.

Appeal 16

161. The appeal is allowed and planning permission is granted for installation of security cameras (retrospective) at Fernhill, Hoveringham Road, Caythorpe, Nottinghamshire NG14 7EE in accordance with the terms of the application, Ref 23/00771/HOUSE and the plans submitted with it, subject to the conditions in the attached schedule.

Mark Harbottle

INSPECTOR

Appendix 1

List of those who have appealed

Reference	Case Reference	Appellant
Appeal 1	APP/B3030/C/23/3334291	Mr Sean Reddington
Appeal 2	APP/B3030/C/23/3334292	Mrs Nicola Reddington
Appeal 3	APP/B3030/C/23/3334304	Mr Sean Reddington
Appeal 4	APP/B3030/C/23/3334305	Mrs Nicola Reddington
Appeal 5	APP/B3030/C/23/3334306	Mr Sean Reddington
Appeal 6	APP/B3030/C/23/3334307	Mrs Nicola Reddington
Appeal 7	APP/B3030/C/23/3334309	Mr Sean Reddington
Appeal 8	APP/B3030/C/23/3334310	Mrs Nicola Reddington
Appeal 9	APP/B3030/C/23/3334313	Mr Sean Reddington
Appeal 10	APP/B3030/C/23/3334314	Mrs Nicola Reddington
Appeal 11	APP/B3030/W/23/3334316	Mr & Mrs S Reddington
Appeal 12	APP/B3030/W/23/3334318	Mr & Mrs S Reddington
Appeal 13	APP/B3030/W/23/3334319	Mr & Mrs S Reddington
Appeal 14	APP/B3030/W/23/3334320	Mr & Mrs S Reddington
Appeal 15	APP/B3030/W/23/3334324	Mr & Mrs S Reddington
Appeal 16	APP/B3030/W/23/3334325	Mr & Mrs S Reddington

APPEARANCES

FOR THE APPELLANTS:

Sean Reddington
Nicola Reddington
Shruti Trivedi, Managing Director, Devello Strategic Limited
George Machin, Partner, GraceMachin Planning and Property

FOR THE LOCAL PLANNING AUTHORITY:

Stephen Cadman, Development Manager
Richard Marshall, Enforcement Officer
Clare Walker, Senior Planner
Michael Read, Trainee Planning Enforcement Officer

INTERESTED PARTIES:

Paul Goldsmith, Environment Agency
Joshua Milsom, Environment Agency

Documents submitted at the Hearing

- 1 Map extract showing the extent of Flood Zones 2, 3a and 3b
- 2 Aerial images taken in 2009, 2016, 2019 and 2022
- 3 Photographs of the appeal sites
- 4 Site plan and extract from officer report on application 19/00745/FUL
- 5 Undated aerial images of the appeal sites prior to the alleged breaches
- 6 Appeal decision APP/B3030/D/12/2180180
- 7 Photographs from 2020 sales particulars

Schedules of conditions

Appeal 3 - APP/B3030/C/23/3334304

- 1) The development hereby permitted shall not be retained other than in accordance with the following approved plan references:
 - FHH-BAR-PL-500 Rev A: Cameras – Site Location Plan
 - FHH-BAR-PL-501: Cameras – Existing Contextual Site Plan
 - FHH-BAR-PL-502: Cameras – Existing Site Plan
 - FHH-BAR-PL-503: Cameras – Proposed Contextual Site Plan
 - FHH-BAR-PL-504: Cameras – Proposed Site Plan
 - FHH-BAR-PL-505: Cameras – Proposed Indicative Tower Elevation
- 2) Unless within 2 months of the date of this decision a scheme for CCTV coverage, including the direction and angle of cameras, is submitted in writing to the local planning authority for approval, and unless the approved scheme is implemented within 2 months of the local planning authority's approval, the security cameras and metal posts shall be removed from the land until such time as a scheme is approved and implemented.

If no scheme in accordance with this condition is approved within 5 months of the date of this decision, the security cameras and metal posts shall be removed from the land until such time as a scheme approved by the local planning authority is implemented.

Upon implementation of the approved scheme for CCTV coverage specified in this condition, that scheme shall thereafter be maintained.

In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.

Appeal 16 - APP/B3030/W/23/3334325, application 23/00771/HOUSE

- 1) The development hereby permitted shall not be retained other than in accordance with the following approved plan references:
 - FHH-BAR-PL-500 Rev A: Cameras – Site Location Plan
 - FHH-BAR-PL-501: Cameras – Existing Contextual Site Plan
 - FHH-BAR-PL-502: Cameras – Existing Site Plan
 - FHH-BAR-PL-503: Cameras – Proposed Contextual Site Plan
 - FHH-BAR-PL-504: Cameras – Proposed Site Plan
 - FHH-BAR-PL-505: Cameras – Proposed Indicative Tower Elevation
- 2) Unless within 2 months of the date of this decision a scheme for CCTV coverage, including the direction and angle of cameras, is submitted in writing to the local planning authority for approval, and unless the approved scheme is implemented within 2 months of the local planning authority's approval, the security cameras and metal posts shall be removed from the land until such time as a scheme is approved and implemented.

If no scheme in accordance with this condition is approved within 5 months of the date of this decision, the security cameras and metal posts shall be

removed from the land until such time as a scheme approved by the local planning authority is implemented.

Upon implementation of the approved scheme for CCTV coverage specified in this condition, that scheme shall thereafter be maintained.

In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.

Appeal 5 - APP/B3030/C/23/3334306

- 1) The development hereby permitted shall not be retained other than in accordance with the following approved plan references:
 - FHH-BAR-PL-001 Rev A: Gym – Site Location Plan
 - FHH-BAR-PL-002: Gym – Existing Contextual Site Plan
 - FHH-BAR-PL-003: Gym – Existing Site Plan
 - FHH-BAR-PL-004: Gym – Existing 3D View
 - FHH-BAR-PL-005: Gym – Proposed Contextual Site Plan
 - FHH-BAR-PL-006: Gym – Proposed Site Plan
 - FHH-BAR-PL-007: Gym – Proposed Ground Floor Plan & Elevations
 - FHH-BAR-PL-008: Gym – Proposed Site Axo
 - FHH-BAR-PL-009: Gym – Proposed 3D View
- 2) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (and any order revoking, re-enacting or modifying that Order), there shall be no development under Schedule 2, Part 1 of the Order, other than as expressly authorised by this permission, in respect of:
 - Class A: The enlargement, improvement or other alteration of a dwellinghouse
 - Class B: The enlargement of a dwellinghouse consisting of an addition or alteration to its roof
 - Class D: The erection or construction of a porch outside any external door of a dwellinghouse
 - Class E: Development within the curtilage of a dwellinghouse

Appeal 14 - APP/B3030/W/23/3334320, application 23/00773/HOUSE

- 1) The development hereby permitted shall not be retained other than in accordance with the following approved plan references:
 - FHH-BAR-PL-001 Rev A: Gym – Site Location Plan
 - FHH-BAR-PL-002: Gym – Existing Contextual Site Plan
 - FHH-BAR-PL-003: Gym – Existing Site Plan
 - FHH-BAR-PL-004: Gym – Existing 3D View
 - FHH-BAR-PL-005: Gym – Proposed Contextual Site Plan
 - FHH-BAR-PL-006: Gym – Proposed Site Plan.
 - FHH-BAR-PL-007: Gym – Proposed Ground Floor Plan & Elevations
 - FHH-BAR-PL-008: Gym – Proposed Site Axo
 - FHH-BAR-PL-009: Gym – Proposed 3D View

- 2) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (and any order revoking, re-enacting or modifying that Order), there shall be no development under Schedule 2, Part 1 of the Order, other than as expressly authorised by this permission, in respect of:
- Class A: The enlargement, improvement or other alteration of a dwellinghouse
 - Class B: The enlargement of a dwellinghouse consisting of an addition or alteration to its roof
 - Class D: The erection or construction of a porch outside any external door of a dwellinghouse
 - Class E: Development within the curtilage of a dwellinghouse