



Appeal Decision

Site visit made on 6 January 2026

by Andrew McGlone BSc MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 9th February 2026

Appeal Ref: APP/Y2003/C/25/3367681

**Land at Eastern part of Fourways Fisheries, Gunthorpe Road, Gunthorpe
DN9 1BG**

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended) (the Act).
- The appeal is made by Mr Ian Ball against an enforcement notice issued by North Lincolnshire Council.
- The notice was issued on 2 May 2025.
- The breach of planning control as alleged in the notice is without planning permission, the erection of a Ruin Castle 'Folly', a bridge, a waterfall, a substation building, a roadway, a hardstanding area; and associated infrastructure for all the aforementioned.
- The requirements of the notice are to:
 - i) demolish and remove the ruin castle 'folly' (shown positioned on plan E1 edged red and attached to this notice and shown in PHOTO1 attached to this notice).
 - ii) demolish and remove the bridge (shown positioned on plan E2 edged red and attached to this notice and shown in PHOTO2 attached to this notice).
 - iii) demolish and remove the waterfall (shown positioned on plan E3 edged red and attached to this notice) and associated infrastructure.
 - iv) demolish and remove the sub-station building (shown positioned on plan E4 edged red and attached to this notice) and associated infrastructure.
 - v) demolish and remove the roadway around the lake and the roadway connection to the east (shown positioned on plan E5 edged red and attached to this notice) and all associated infrastructure.
 - vi) remove the hardstanding area and all associated infrastructure (drainage, electricity, water etc) (shown edged red and positioned on plan E6 attached to this notice and shown in photographs PHOTO3 – PHOTO8 inc, attached to this notice).
 - vii) following demolition and removal of those developments described in paragraph 5 (I, II, III, IV, V and VI), the land shall be returned to its previous condition that existed prior to the breach occurring.
- The period for compliance with the requirements is 6 months beginning with the date that this Notice takes effect.
- The appeal is proceeding on the ground set out in section 174(2)(a) 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.

Decision

1. The appeal is allowed insofar as it relates to the folly, waterfall, sub-station and roadway and planning permission is granted on the application deemed to have been made under section 177(5) of the Act at land at Eastern part of Fourways Fisheries, Gunthorpe Road, Gunthorpe DN9 1BG and subject to the conditions in the attached schedule.
2. The appeal is dismissed and the EN is upheld insofar as it relates to the bridge and hardstanding and planning permission is refused in respect of them at land at Eastern part of Fourways Fisheries, Gunthorpe Road, Gunthorpe DN9 1BG on the application deemed to have been made under section 177(5) of the Act.

Preliminary Matters

3. The alleged breach of planning control relates to operational development. An appeal on ground (a) is that, in respect of any breach of planning control which may be constituted by the matters stated in the EN, planning permission ought to be granted. Thus, my consideration of the deemed planning application is limited to those matters stated on the EN as the allegation cannot be corrected to grant planning permission for more extensive development than is subject to the EN.
4. From photographs attached to the EN, the folly and the bridge are substantially complete, and I have no reason to believe that the waterfall and substation were not substantially complete when the EN was issued, given the evidence before me. However, the photographs show that the roadway and the hardstanding were only partially complete when the EN was issued. So, although the appellant may have carried out further works, or they intend to build or use land in a particular way, another grant of planning permission may be necessary if the appeal is allowed. I therefore determined the appeal on this basis.
5. At the same time as determining this appeal, I have also considered and determined another appeal relating to the western part of Fourways Fisheries (APP/Y2003/C/25/3364274). While I have considered each appeal on its own merits, where relevant, I have taken points common to both appeals into account.

Main Issues

6. The main issues are a) whether the development is a suitable location in the countryside, including, among other things, its effect on the character and appearance of the area; b) the effect of the proposal on flooding; and c) the effect of the proposal on ecology.

Reasons

Suitable location

7. The appeal site is located outside of any development boundary in the countryside, and it is not within an existing established employment location. Consequently, development here will be restricted/strictly controlled, as Policies CS2 and CS3 of the North Lincolnshire Core Strategy Adopted June 2011 (CS) and saved Policy RD2 of the North Lincolnshire Local Plan May 2003 (LP) explain.
8. Only development which is essential to the functioning of the countryside will be allowed to take place according to CS Policies CS2 and CS3. These include uses such as those related to agriculture, forestry or other uses which require a countryside location or which will contribute to the sustainable development of the tourist industry.
9. Saved LP Policy RD2 explains that development in the open countryside will only be granted for development which is one of the listed criteria and that satisfies several other requirements. The criteria include employment related development appropriate to the open countryside and essential for the provision of outdoor sport, countryside recreation. The policy also requires that the open countryside is the only appropriate location and development cannot reasonably be accommodated within defined development boundaries; that the proposal accords with other relevant policies in LP; development would not be detrimental to character or appearance, residential amenity or highway safety; and account is taken of whether the site is capable of being served by public transport; and the development is sited to make best use of existing and new landscaping.

10. CS Policy CS15 explains that existing tourist facilities and infrastructure will be protected and enhanced, and the development and promotion of sustainable tourism focusing on the area's natural and built assets will be supported.

The appeal site

11. The appeal site relates to the eastern part of Fourways Fisheries. The other part of Fourways Fisheries lies to the west (separate EN). Both parts of Fourways Fisheries are used for recreational fishing, a caravan and camping site and for local and national rally's. The caravan and camping site comprise five caravan pitches and ten tent pitches. There are multiple fishing lakes across Fourways Fisheries and an alpaca business operating in the western part of the site.
12. Planning permission was granted in 2018 for the large fishing lake in the centre of the appeal site (the 2018 permission) with three islands set within it. The eastern part of Fourways Fisheries lies in, and forms part of a rural environment. The surrounding area is relatively flat with an open character that affords short, medium and long-distance views. Gunthorpe Road extends beyond and along the site's northern boundary. A belt of landscaping lies between the road and the remainder of the site on the northern boundary, while it wraps around to the east and west boundaries. Agricultural fields lie to the south.

The business operation

13. The fishing lakes across the whole site provide facilities for an outdoor sport/recreational use. The fishing lakes require management and maintenance so that they provide a good quality environment for fishing. They also need to be adequately stocked so that they are well used from a business perspective. The fishery aspect of the business is a source of employment related to the open countryside given the number and size of fishing lakes, irrespective of the points about the number of lakes on the western part of the site.
14. The caravan and tent pitches offer tourist accommodation. These pitches make use of the site's natural assets due to the countryside location, open character and the fishing lakes that provide a tranquil setting and recreation opportunities. The accommodation contributes financially to the fishery.
15. The alpaca business takes place on the western portion of Fourways Fisheries, and it is run by the appellant's daughter. The business aims to become self-sufficient as it grows, from the sale of fleece, manure and Cria as the breeding programme develops, but it is reliant on capital from other parts of the business.

Waterfall

16. The stone-built waterfall is at the eastern end of the lake. Although the Council points to natural alternatives, my findings relate to the development subject of the EN. Unlike the other lakes at Fourways Fisheries, the lake that the waterfall flows into is larger. There are benefits to the health of the fish and the ecosystem created by the waterfall, as it helps oxygenate the lake and enhance its quality by circulating water and preventing stagnation that can lead to algae blooms harmful to water quality and the fish. Thus, the waterfall fulfils an essential function.
17. The waterfall is modest in scale, albeit it is a standalone feature that is visible across the landscape to the south against the site's mature landscaped boundaries. The waterfall has added extra development to the site, but it occupies a modest floor area, and while it is not typical of the area, it does not necessarily need to be 'agricultural' in appearance, just not detrimental to the character and

appearance of the open countryside. In that regard, the use of stone, and the scale, location and massing of the waterfall mean that it does not cause a detrimental effect on the openness of the countryside.

Sub-station

18. The single storey sub-station building is in the north-east corner of the appeal site. The sub-station has been built to industry standards with the necessary safety and security measures, which include security fencing around the sub-station building.
19. When the appellant purchased the site, they experienced a poor and unreliable electricity supply. This was put under pressure by the existing caravan and tent pitches and the appellant states that they found themselves having to deal with supply issues. I have no reason to doubt their experience.
20. The appellant's actions by developing Fourways Fisheries as a whole (and subject to both EN's) have increased demand on what was already a supply under pressure. As such, they have contributed to the case that they put forward about the need for a secure and stable electricity supply. This does not weigh in their favour, but I do, still need to consider the planning merits of the sub-station.
21. Given my findings about the waterfall and the prior issues with electricity supply at the site, the sub-station is essential for it to function in the countryside. Moreover, the sub-station has a straightforward design that uses traditional materials typical of the local area where development exists. The sub-station is set back into the corner of the site and viewed up against established landscaping, so while it is a standalone building it does not detract from the open character of the landscape.
22. I note the Council's points about the associated infrastructure and trenches being visible at one point, but the infrastructure is underground and the trenches have been backfilled. Over time the trenches will blend into the site and the wider area, thus avoiding a detrimental impact on the character and appearance of the area.

Roadway

23. The approved plans that were conditioned as part of the 2018 permission show an access road around the fishing lake that links up towards the access road connecting both parts of Fourways Fisheries to Gunthorpe Road. Most of the access road was tightly positioned around the lake. The roadway in situ is sited towards the site's perimeter, extending all the way around it in the same vein as the approved access road. There are, however, some differences in the form of a turning head and section enabling two-way passage in the northeastern corner. The roadway is formed of a base layer with kerbstone edges.
24. At present, the roadway's surface is not unlike a track, albeit one bound by kerbstones. While the roadway covers a significant distance, its appearance is not widely understood and is softened by landscaping. Given that the fishery is an established facility, I consider the access road to be essential infrastructure, as it allows people to access the fishing lake whether that be to fish or carry out management and maintenance of the lake or its surrounds. As such, the function of the roadway is no different from the access road that was granted planning permission in 2018. Furthermore, it connects up to the existing highway network.
25. I understand the appellant's reasons for seeking to form an alternative access route and the Council's concerns about them, but the roadway cannot be appreciated beyond the appeal site. So, while it increases the amount of built development on the site, its effect, owing to its alignment mirroring the ditch along

the southern boundary and the existing landscaping to the north, east and west, means that the open character of the wide countryside setting remains.

26. Therefore, I consider this essential infrastructure for the provision of outdoor sport countryside recreation is not detrimental to the area's character and appearance.

Hardstanding

27. The hardstanding lies at the western end of the appeal site. The kerbs collectively form a series of bays with initial drainage and water provision. It is unclear if they are connected. While the appellant intends to use the area of hardstanding for 50 caravan pitches, I have explained the basis of my assessment earlier.
28. The hardstanding has introduced a large amount of built form to the land where there was none previously. This has harmfully changed the character of this part of the site, albeit the land where the hardstanding is still largely retains an open character given the hardstanding is confined to ground level. The landscaped boundaries to the side and rear soften the hardstanding, but they do not alleviate its harmful effect when viewed from the south and east owing to the amount of built form on the land in an otherwise rural environment.
29. I have noted the appellant's points around the use of the hardstanding and how that relates to rural tourism, employment on the wider site and the financial viability of his business. However, for reasons explained, I am solely concerned with the operational development, as that is what the EN alleges, not a material change of use. The appellant's points relate to the use of the hardstanding, not whether it itself is essential for the provision of outdoor sport or countryside recreation or employment-related development appropriate to the open countryside. I consider the hardstanding is not essential in either regard. Nor is there any substantive evidence to show how its loss would affect the ability of the business to sustain itself given current outgoings, and any consequential effects.
30. I therefore conclude that the hardstanding is detrimental to the character and appearance of the area, and that it is not employment or tourism related development or essential to the outdoor sport and recreation on the site.

Folly and bridge

31. The folly was designed and built to appear in a ruined state to encourage use by bat species after the appellant's observation of bat species feeding over the lake during dusk. The bridge enables access to the folly and the island that it sits on.
32. Although the folly and the bridge act as a focal point for visitors, including photographers, and they contribute to the enjoyment of persons using the appeal site, they are not essential for the fishery or the caravan or camping pitches. Even if I regard the folly and the bridge to be attractive features that do not harm the character and appearance of the area, they are still not essential for maintenance of the small island as that could be undertaken by other means such as a boat.

Conclusion on this main issue

33. I conclude, in respect of this issue, that the sub-station, roadway and waterfall are in a suitable location in the countryside, having regard to, among other things, their effect on the character and appearance of the area. On this basis they comply with CS Policies CS1, CS2, CS3, CS5, CS15 and CS16 and saved LP Policies DS1, RD2, RD12, LC7 and T2. Collectively, these policies, among other things, strictly limit/control development in the open countryside unless it is employment related

development appropriate to the open countryside or essential for the provision of outdoor sport or countryside recreation or tourism. Development here should also not have a detrimental impact on the character and appearance of the area by being well designed and appropriate for its context.

34. Conversely, I conclude that the hardstanding, bridge and folly are not in a suitable location in the countryside, having regard to their effect on the character and appearance of the area. On this basis they do not accord with CS Policies CS1, CS2, CS3, CS5, CS15 and CS16 and saved LP Policies DS1, RD2, RD12, LC7 and T2 whose collective objectives I have previously set out.

Flooding

35. The site lies within Flood Zone 3, which is a zone with a risk of a 1 in 200 year (0.5% Annual Exceedance Probability) or greater for river and tidal/coastal flooding. The site is larger than a hectare. When climate change is factored in, there is a 1 in 200-year risk of tidal/fluvial flooding even with flood defences in place along the River Trent (1km to the east). With an estimated flood level of 2.68m OD the site could be flooded to a depth of around 1m. If the flood defences were removed, the site would be flooded to 3.48m OD in a 1 in 100-year event and to 4.13m OD during a 1 in 1,000-year event. Warping Drain, River Idle and Blackdyke Drain are also nearby, but none would result in flooding of the site.
36. A sequential risk-based approach should also be taken to individual applications in areas known to be at risk now or in the future from any form of flooding according to paragraph 173 of the National Planning Policy Framework (the Framework).
37. The Flood Risk Assessment (FRA) confirms that the site is in an area at risk of flooding in the future. But a pragmatic approach to whether a sequential test is required should be taken where proposals involve comparatively small extensions to existing premises (relative to their existing size) or where it may be impractical to accommodate the additional space in an alternative location. In this case the size of the site is unchanged, but part of the site is being used for a less vulnerable development compared to the other existing water-compatible development in place. The hardstanding and roadway are permeable surfaces, and as they are partially complete, there are no occupiers or users. But, even if there are, there is a safe access and egress escape route available. Therefore, people would remain safe from current and surface water flood risk for the lifetime of the development.
38. Owing to the permeable surfaces and the use of a sustainable drainage system that would integrate with green infrastructure on the site, flood risk elsewhere would not be increased, as the rate of discharge would be managed or retained as it historically has been. A sequential test is not necessary in this case. Nor is the exception test, having regard to Annex 3 of the Framework.
39. I therefore conclude, on this issue, that the proposal accords with CS Policy CS19 and saved LP Policies DS14 and DS16 because the FRA has demonstrated the occupiers and users would remain safe from current and future surface water flood risk and the proposal won't increase flood risk elsewhere.

Ecology

40. The folly is ornamental, but an open structure built of stone. There are no crevices as it has recently been repointed. The Preliminary Roost Assessment (PEA) confirms that the folly lies in the middle of a large fishing lake bound by arable fields. In the surrounding area there is a network of ditches and hedgerows which

offer suitable habitat for bats for forage and commute in addition to the foraging habitat afforded by the lake. Hence, the folly in itself is not necessarily essential. However, there are five crevice type bat boxes affixed to the internal and external walls of the folly. The PEA noted four bat boxes and found evidence of them being used by bats for roosting. It is therefore reasonable to conclude that the fifth box is used also. In that regard, the folly is supporting habitat features for a protected species. This is aided by the enclosed nature of the structure, together with its proximity to the surrounding habitat that is suitable for foraging bats.

41. While the bat boxes could be detached from the folly, the structure does provide a suitable medium for them to be affixed to, and the folly may over time develop crevices that may be used by bats. In this regard, retaining the folly would retain and protect the biodiversity habitat that has been created which is suitable for wildlife, ensuring a net gain for biodiversity.
42. Any construction effects have already taken place and are time limited. While there will be movements and visitors to the site connected to the fishery, I conclude that the proposal's effect on ecology accords with CS Policy CS17 and saved LP Policies DS1, LC5 and LC6. These policies jointly seek proposals to retain, protect and enhance features of biological interest, and to produce a net gain in biodiversity with appropriate consideration given to European species.

Other Matters

43. The appeal site is not in an accessible location to facilities and services, and it is not capable of being served by public transport, but the development, save for the hardstanding, does not change how or why people access the site. The hardstanding subject of the EN is operational development, so points about using the hardstanding and any associated accessibility credentials are moot points. So are the concerns about the condition of Gunthorpe Road and highway safety arising from use by caravans and motorhomes. Likewise, points about people spending in the local economy from using the hardstanding as caravan pitches relate to the use of the land, a matter that the EN does not allege.
44. I note the points about Gunthorpe Road being blocked and damage being caused to properties from works taking place on the site. Damage to private property is a civil matter. I do not doubt that the road may have been blocked on occasion, but that is not an everyday occurrence given that the development has taken place.
45. The development is well contained and is a sufficient distance away from residents. I have noted residents' concerns about noise from music, particularly during sensitive times of the night, but I have solely considered the physical merits of the hardstanding rather than its use given the EN's allegation.
46. The 2018 appeal decision relates to the western part of Fourways Fisheries, not the appeal site. That scheme also comprised different forms of development from that before me. Notably, the Inspector determined that scheme would have an unacceptable effect on the character and appearance of the area. I have identified harmful effects of the scheme before me also, but also parts that are not. Therefore, I have reached my own assessment having regard to the different development subject of the appeal before me despite the locational similarities. As such, the 2018 appeal decision does not alter my assessment.
47. There are various references to appendices in the Council's submission, but I have determined the appeal based on the evidence before me, which does not include

them or the evidence reportedly contained within them. It is the responsibility of each party to submit the evidence that it wishes to rely upon as part of the appeal.

48. The enforcement process is not punitive, but I understand residents' points about the appellant disregarding the planning process and undertaking the works without the benefit of planning permission. The Council issued an EN, so his actions were not ignored. I have considered the planning merits of the development based on circumstances when the EN was issued. Another grant of planning permission(s) may be required to carry out other works or to use the site in a particular way. That is a matter between the appellant and the Council to resolve in the first instance.

Conditions

49. I have not imposed restrictions on new buildings, structures, fences, walls or open storage as they are not necessary to make the otherwise acceptable development acceptable. I have not imposed a plans condition or a site development scheme condition, as my findings are based on the deemed planning application. I have not imposed conditions regarding surface water drainage and a biodiversity management plan given the type and nature of the development that I have found to be acceptable and the existing habitat in situ.

Conclusion

50. For the reasons set out above, the sub-station, roadway and the waterfall accord with the development plan and there are no material considerations that indicate that I take a decision other than in accordance with it.
51. Although I identified harm in respect of the folly insofar as its location in the countryside and the character and appearance of the area, this conflict is outweighed by the ecological habitat that the folly provides and the benefit to biodiversity that flows from that even though the folly may have initially been conceived as an ornamental feature. Accordingly, the folly accords with the development plan and there are no material considerations that indicate that I take a decision other than in accordance with it.
52. However, for the reasons outlined, the hardstanding and the bridge do not accord with the development plan and there are no material considerations that indicate that I take a decision other than in accordance with it in respect of them.
53. Although the bridge and the folly are near to each other and the former links the island on which the folly is situated to the remainder of the site, they are physically and functionally separate from each other. As such, they are clearly severable, and it is therefore logical that I issue a split decision given that I have found one to be acceptable and the other not. Furthermore, the hardstanding and roadway are physically and functionally separate, and so are clearly severable. I shall therefore issue a split decision in that regard also, given my findings.
54. Therefore, I conclude that the appeal should succeed in part only, and I will grant planning permission for the sub-station, roadway, waterfall and the folly, but otherwise I will uphold the EN and refuse to grant planning permission in respect of the hardstanding and the bridge. The requirements of the EN will cease to have effect so far as inconsistent with the planning permission which I will grant by virtue of s180 of the 1990 Act.

Andrew McGlone

INSPECTOR