Planning Inspectorate

Appeal Decision

Site visit made on 13 October 2026

by A Berry MTCP (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19 November 2026

Appeal Ref: APP/Y2430/C/25/3368766
Land at Willowmead, 5 Hollands Lane, Twyford, Leicestershire LE14 2HP

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended) ("the 1990 Act").
- The appeal is made by Mr Gary Bird against an enforcement notice ("EN") issued by Melton Borough Council.
- The EN was issued on 3 July 2025.
- The breach of planning control as alleged in the EN is: The excavation and formation of a pond on land at Willowmead 5 Hollands Lane Twyford Leicestershire LE14 2HP was carried out without the required planning permission. Subsequent Lawful Development Certificate for a natural pond created to encourage wildlife and associated landscaping was refused on 3 July 2025 (25/00489/CL), in the approximate position marked with a cross on the attached plan.
- The requirements of the EN are:
  1) Cease the use of the land in connection with the unauthorised pond.
  2) Remove all materials, structures, and equipment associated with the excavation and formation of the pond.
  3) Reinstate the land to its condition prior to the unauthorised works, including:
     - Backfilling the excavation with appropriate material.
     - Re-seeding or re-turfing the area to match the surrounding land.
     - Ensuring the land is level and stable.
- The periods for compliance with the requirement are:
  No later than Monday 4th August 2025 Cease the use of the land in connection with the unauthorised pond.
  No later than Friday 26th September 2025 Remove all materials, structures, and equipment associated with the excavation and formation of the pond.
  No later than Friday 26th September 2025 Reinstate the land to its condition prior to the unauthorised works, including: backfilling the excavation with appropriate material. Re-seeding or re-turfing the area to match the surrounding land. Ensuring the land is level and stable.
- The appeal is proceeding on the grounds set out in section 174(2)(c) and (e) of the 1990 Act.

Decision

1. It is directed that the EN is corrected and varied by:

   - *the deletion of the alleged breach of planning control in part 3 of the EN in its entirety and its substitution with the words: "The excavation and formation of a pond in the approximate position marked with a cross on the attached plan";*

   - *the deletion of the requirements in part 5 of the EN in their entirety and their substitution with the words: "Return the land back to its former condition prior to the unauthorised development occurring"; and*

   - *the deletion of the times for compliance in part 6 of the EN in their entirety and their substitution with the words: "8 weeks".*

2. Subject to the corrections and variations, the appeal is dismissed and the EN is upheld.

Matters Concerning the Notice

3. An EN should enable every person who receives a copy to know exactly what, in the Council's view, constitutes the breach of planning control, what steps need to be taken to remedy the breach, and the time for compliance. The recipient of the EN is entitled to find out from within the four corners of the EN what they are required to do or abstain from doing.

4. I can correct any defect, error, or misdescription in an EN or vary the terms of the EN using the powers available to me under s176(1) of the 1990 Act, where the correction or variation will not cause injustice to the appellant or Council. However, it may be the case that defects are too fundamental to be corrected or varied without causing injustice, leading to the EN being quashed.

The Alleged Breach of Planning Control

5. The alleged breach of planning control described in Part 3 of the EN includes superfluous text that is not an act of development. Therefore, I must omit this. I am satisfied that this would not cause injustice to the main appeal parties as the correction is for precision.

The Requirements

6. Step (1) of the EN's requirements seeks the cessation of the use of the land in connection with the unauthorised pond. The breach of planning control does not allege that a material change of use has occurred and therefore, there is no use to cease. Consequently, I must delete step (1).

7. Step (2) requires the removal of all materials, structures and equipment associated with the excavation and formation of the pond. However, it fails to state where they are to be moved from. Furthermore, the spoil (i.e. "material") is likely to be needed to comply with step (3) and the removal of equipment that may be used/owned by the appellant for other purposes would be excessive. Consequently, I must delete step (2).

8. Step (3) requires the reinstatement of the land to its condition prior to the unauthorised works taking place. An EN cannot require something to be reinstated and therefore it should refer to the land being returned to its condition prior to the unauthorised works taking place. It is unnecessary for step (3) to specify what these works should include as the appellant is best placed to know what the land looked like prior to the alleged breach occurring. Therefore, I must vary step (3) accordingly.

9. These variations are necessary to ensure precision and that the requirements are not excessive. The requirements (as varied) would still remedy the alleged breach of planning control. For these reasons, I am satisfied that they would not cause injustice to the main appeal parties.

Time for Compliance

10. The times to comply with the requirements are expressed as a specific date rather than a period of time. As such, all the dates have expired. However, it is clear from

the four corners of the EN what the relevant timeframes should be and therefore, I am satisfied that they can be corrected without causing injustice to the main appeal parties.

11. As described above, I have omitted steps (1) and (2) and therefore, a timeframe is no longer required in this regard. The EN took effect on 1 August 2025, and the EN states that step (3) was to be complied with no later than 26 September 2025. This is a period of 8 weeks. Consequently, I will correct the time for compliance to 8 weeks.

Procedural Matters

12. The planning merits of the alleged breach of planning control are not relevant to an appeal under grounds (c) and (e). Consequently, the comments from interested parties have not had an influence upon my decision.

13. I am aware of an appeal against the Council's refusal of a Lawful Development Certificate ("LDC") for the same development as alleged in the EN[1]. This is the subject of a separate decision. However, my determination is based solely on the evidence submitted in relation to this appeal.

'Hidden' Appeal on Ground (e)

14. An appeal under ground (e) is made on the basis that copies of the EN were not served as required.

15. The appellant submits under ground (c) that the appeal is made on the basis that the EN is dated 3 July 2025, but it was not served until 4 July 2025. They assert they were advised to appeal to avoid confusion over the dates. This is a matter that falls to be considered under ground (e) and therefore, is a *"hidden"* ground.

16. The Council has responded to the appellant's comments regarding the dates and therefore, has not been prejudiced by my consideration of the appeal under ground (e).

17. The appellant's assertion is supported by the Council's signed *"Certificate of Service"* that confirms the appellant's dates. However, an EN only needs to be served within 28 days of its date of issue, and a minimum of 28 days must be given between the date the EN was served and the date specified as the date the EN takes effect. The serving of the EN was therefore undertaken correctly.

18. Even if the EN was served incorrectly, the appellant must demonstrate substantial prejudice has been caused. As the appellant made a valid appeal, then they have not been substantially prejudiced.

19. For these reasons, the *"hidden"* appeal under ground (e) fails.

Appeal on Ground (c)

20. An appeal under ground (c) is that the matters alleged in the EN do not constitute a breach of planning control. The onus of proof is on the appellant(s) to show there has been no breach of planning control. The relevant test is the balance of probability.

[1] Appeal Ref APP/Y2430/C/25/3368675

21. The appellant's evidence simply states that an appeal against the Council's refusal of a LDC for the same development has been made and then details the Council's conflicting advice regarding whether planning permission would be required for a pond. Consequently, the evidence submitted in support of the appeal does not explain why the matter alleged in the EN would not constitute a breach of planning control.

22. For these reasons, the appellant has not shown, on the balance of probability, that there has not been a breach of planning control. The appeal on ground (c) therefore fails.

Conclusion

23. For the reasons given above, I conclude that the appeal should not succeed. I shall uphold the EN with corrections and variations.

A Berry

INSPECTOR