



Appeal Decisions

Site visit made on 25 November 2019

by Laura Renaudon LLM LARTPI Solicitor

an Inspector appointed by the Secretary of State

Decision date: 06 January 2020

Appeal Refs:

APP/C9499/C/19/3226457 ('Appeal A')

APP/C9499/C/19/3226458 ('Appeal B')

**Snowdrop Barn, Brackenslack Lane, Maulds Meaburn, Penrith, Cumbria
CA10 3HX**

- The appeals are made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
 - The appeals are made by Ms D Baird (Appeal A) and Mr D Thompson (Appeal B) against an enforcement notice issued by the Yorkshire Dales National Park Authority.
 - The enforcement notice was issued on 12 March 2019.
 - The breach of planning control as alleged in the notice is *Without planning permission, the following development:*
 - (i) *Installation of a window in the north gable of the building situated on the land.*
 - (ii) *Engineering operations to create a level hardsurfaced area measuring approximately 246 m² and construction of blockwork retaining walls to the north and east of the building.*
 - (iii) *Erection of four timber sheds on the land. The approximate locations of the sheds are shown marked by X on the attached plan.*
 - The requirements of the notice are:
 1. *Remove the window in the north gable and block up the opening using stonework to match the existing stonework on the north gable.*
 2. *Demolish the retaining walls, dig up the hardsurfaced area and reconfigure the ground levels to the levels that existed prior to the unauthorised engineering operations, and reseed the affected area with grass.*
 3. *Dismantle and remove from the land all four timber sheds.*
 - The period for compliance with the requirements is six months.
 - Appeal A is proceeding on the grounds set out in section 174(2)(a), (f) and (g) of the Town and Country Planning Act 1990 as amended ('the 1990 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 1990 Act.
 - Appeal B is proceeding on the grounds set out in section 174(2)(f) and (g) of the 1990 Act. Since the prescribed fees have not been paid within the specified period, the appeal on ground (a) and the application for planning permission deemed to have been made under section 177(5) of the Act as amended have lapsed.
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Appeal Ref: APP/C9499/W/19/3226452 ('Appeal C')

**Snowdrop Barn, Brackenslack Lane, Maulds Meaburn, Penrith, Cumbria
CA10 3HX**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Ms Daphne Baird against the decision of the Yorkshire Dales National Park Authority.
- The application Ref E/03/5A, dated 4 July 2018, was refused by notice dated 17 December 2018.

- The development proposed is described in the application as a change of use of barn to 3 bedroom dwelling, with the application constituting an application for the removal or variation of a condition following [a] grant of planning permission. The condition in question was identified as No 2, with internal amendments and required installation of fire escape windows to bedrooms being sought.
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Appeal Ref: APP/C9499/W/19/3226455 ('Appeal D')
Snowdrop Barn, Brackenslack Lane, Maulds Meaburn, Penrith, Cumbria
CA10 3HX

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Ms D Baird against the decision of the Yorkshire Dales National Park Authority.
 - The application Ref E/03/5B, dated 5 July 2018, was refused by notice dated 17 December 2018.
 - The development proposed is described in the application as constituting the following elements:
 - Change of use of land to form residential curtilage
 - Excavation works to alter land levels
 - Alteration to outbuilding
 - Erection of shed for storage of feed and plant and erection of extension to existing outbuilding to form chicken shed.
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Summary Decisions

1. In essence, I find the barn windows, 2 of the chicken sheds and a 2m perimeter of hardstanding around the barn to be acceptable. I have therefore allowed Appeal C, granted a planning permission for the 2 sheds on Appeal A, and underenforced on Appeals A and B to allow for the retention of part of the hardstanding. I have however upheld the notice in relation to the existing window and the chicken sheds. This is because these elements are only acceptable subject to there being compliance with the planning conditions I have imposed on the permissions granted on Appeal C and the deemed application on Appeal A. Those permissions would override the notice in the relevant respects, as a result of section 180 of the 1990 Act.

Appeal A

2. The appeal succeeds in part and permission is granted in part, and the enforcement notice is upheld as corrected and varied in the terms set out below in the Formal Decision.

Appeal B

3. The appeal succeeds in part and the enforcement notice is upheld as corrected and varied in the terms set out below in the Formal Decision.

Appeal C

4. The appeal is allowed and conditional planning permission is granted:
 - (i) for development already carried out consisting of the change of use of barn to three bedroomed dwelling with associated alterations; and
 - (ii) for a first floor window in the eastern elevation of the dwelling
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in the terms set out below in the Formal Decision.

Appeal D

5. The appeal is dismissed.

Preliminary Matters

6. The terms 'the building', 'the barn' and 'the dwelling' (or 'dwellinghouse') are used interchangeably below as the context requires to describe the principal building that is the subject of my decisions. The exceptions are where, as will be clear from the context, other buildings are being discussed.

Appeals A and B

7. Appeals A and B are appeals against the same enforcement notice, with Appeal A benefitting from a fee exemption on the appeal on ground (a) and the deemed application for planning permission. Grounds (f) and (g) are common to both decisions, with no other grounds brought in either case. Save for my formal decision, I shall therefore deal with Appeal A only in my reasons below.
8. The first allegation at paragraph 3(i) relates to the installation of a window in the 'north gable of the building'. There is more than one building on the land. Nevertheless the main parties to the appeal are of the common understanding that this relates to the first floor window that has been installed in the northern elevation of the dwellinghouse situated upon the land (which is not a gable wall, and has a hipped roof above). For the avoidance of any doubt I shall correct that allegation to read "Installation of a first floor window in the northern elevation of the dwellinghouse situated on the land". I shall make commensurate changes to the steps required in paragraph 5.1 of the notice. I am satisfied that no injustice will be caused.
9. For the reasons set out below it is necessary to distinguish the various sheds. All four of them are marked 'X' on the notice. For clarity, I shall amend their numbering to A, B, C and D, and substitute the plan attached to the notice with the one attached to this decision letter.

Appeal C

10. By the agreement of the parties, the description of the proposed development was changed from that recorded in the application form by the Authority when considering and determining the application. The Authority subsequently refused permission "for section 73 application for variation of condition 2 of planning permission E/03/5 (part retrospective)". This amended description does not describe any development for which planning permission is required. The original permission, granted on 4 July 2017 under reference E/03/5, described the development thereby permitted as "change of use of barn to three bedroomed dwelling". The permission was subject to condition No 2 which required the development to be carried out in accordance with various plans including Drawing No D.01e, which detailed the proposed elevations.
11. What application E/03/5A, now Appeal C, sought in substance was another grant of planning permission for the change of use of the barn to a three bedroomed dwelling, but without complying with the 'plans' condition No 2 that had been attached to the earlier permission E/03/5.

12. Although the permission expressly authorised a change of use, it is clear from the plans that were approved that works to the building in order to facilitate that change of use would also be required, and were given approval. Separately, condition No 3 removed several permitted development rights, including those to make alterations to dwellinghouses.
13. The building has been converted and is being lived in, and the application now constituting Appeal C, seeking to rectify the departures from the 'plans' condition and to propose some additional development, is described by the parties as an attempt to regularise the situation. Because some of the original conditions cannot now be fully complied with (if at all) and the development has taken place entirely without reference to them, it follows that I do not agree that the permission has been implemented, or that it remains capable of implementation. The works that have taken place to facilitate the change of use of the former barn into the existing dwellinghouse have been unauthorised in their entirety, as has the change of use itself.
14. Accordingly, there is no merit in dealing with Appeal C as a proposal to vary the 'plans' condition under the process of section 73 of the 1990 Act. I therefore propose to deal with the proposal under section 73A and re-describe the development for which permission is sought as an application for retrospective planning permission for the change of use of barn as a three bedroomed dwelling with associated alterations, with proposed elevational alteration consisting of a first floor window in the eastern elevation. I am satisfied that the parties have addressed the relevant issues and that no injustice would result from this re-description, whether to the parties to the appeal or to any interested third parties. The application was made partly retrospectively, and publicised as such, and the departure from the conditions and earlier permission will have been readily apparent to interested parties.

Appeal D

15. A Site Plan (the 'Site Plan') referring to Snow Drop Barn has been supplied, outlining the barn, the old piggery, and additional areas of land in red, thus forming the application site. Other land, extending to much of the wider adjoining field, is outlined in blue, indicating that it lies outside the application site but within the ownership or control of the appellant. Drawing No. 01 Rev 4 is entitled "Existing and proposed floor plans", and Drawing No 01 Rev 5 carries the same description. Between them they show a 'proposed agricultural shed' to the north east of the application site, a proposed 'timber chicken shed' to the west of, and immediately adjoining, the piggery building to the south west of the application site, and a retaining wall with steps to the east and north of the application site. These plans were subsequently substituted by the more detailed Drawing Nos L1/18/1810 and L2/18/1910.
16. Again the description of the application was amended by agreement, and the Authority's decision notice determines the application as being for planning permission for "change of use of land to form domestic garden, retention of excavation of land and construction of retaining walls, erection of garage/store, erection of incubator shed, and erection of 4 poultry chicken huts (part retrospective)".
17. Taking these in turn:

- The 'change of use of land to form domestic garden' proposed in the unnumbered 'Site Plan' submitted with Appeal D appears to relate to most of the extended 'red line' area, which exceeds the area of land shown on the approved site plan under permission E/03/5, numbered D.02. The principal difference is to show the garden area that has been created to the north and east of the dwelling. The area of the proposed chicken shed/incubator shed is shown within the red line of the 'Site Plan' but does not appear to form part of the (existing or proposed) domestic garden area. This 'Site Plan' does not however appear on the list of plans upon which the Authority made its decision.
 - The 'retention of excavation of land and construction of retaining walls' relates to the development that I saw on the site. The wall is approximately 2m high at its north eastern point, gradually tapering with the adjoining land fall.
 - The 'erection of garage/store' appears to relate to the 'agricultural shed' shown on the 'existing and proposed floor plans' to the north east corner of the excavated land, renamed on drawings L1/18/1810 and L2/18/1910 to be a 'timber garage/domestic store'.
 - The 'incubator shed' appears to be the 'chicken shed', although I note the appellant states this is no longer required (appeal statement, 6.19).
 - Save for one, which is in the field but not the application site, the 4 poultry chicken huts are not shown on the plans. They are described in the officer's report as 6' x 4' garden sheds which would be used as hen houses and sited across the field. From this description, and from what I saw on the site, it appears that all but one of the proposed sheds (of which 3 presently exist in the adjacent field, along with several chicken coops) are not proposed within the Appeal D application site. The one shed that does lie within the application site does not appear on the Appeal D plans.
18. There is reference in the documents before me to some works having been carried out to the piggery building, and the description given in the application form (repeated in the banner heading above) included 'alteration to outbuilding'. However, this element had disappeared from the description of the development agreed by the parties and contained in the Authority's refusal notice, and so does not fall before me for consideration.

Summary of development for consideration

19. The development to be considered in the various appeals may therefore be summarised as constituting the following principal elements:
- (i) Conversion of the barn to a dwellinghouse (Appeal C) to include an existing first floor window to the north (Appeals A and C) and a prospective first floor window to the east (Appeal C);
 - (ii) A change of use of land from agricultural to residential garden, and engineering operations to create a garden area to the north and east, with retaining walls (Appeals A and D);

- (iii) The proposed construction of a garage/store, alternatively described as an agricultural shed, to the north east corner of the above garden area (Appeal D);
- (iv) The erection of 1 timber shed to the north of the piggery building (Appeals A and D, notwithstanding that no shed is shown on the Appeal D plans within the 'red line' application site);
- (v) The erection of 3 further timber sheds within the adjoining field (Appeal A only); and
- (vi) The proposed construction of a chicken shed/incubator shed to the west of the piggery building (Appeal D).

20. I note additionally that prior approval has been given for an agricultural storage building located immediately adjacent to the north west corner of the curtilage of the barn. At the time of my site visit this had not been constructed.

Main Issues

21. The main issues arising in the appeals are the effects of the various developments on the character and appearance of the Maulds Meaburn Conservation Area, and on the non-designated heritage asset of the barn itself, and on the landscape and cultural heritage of the Yorkshire Dales National Park ('the YDNP', or 'the National Park').

Reasons

(i) The Barn Conversion including first floor windows

22. The YDNP was extended in 2016 to include the Westmorland Dales, and the appeal property is the first dwelling on the left within the National Park (and the Westmorland Dales) when entering the village on the road leading from the agricultural land to the north. The village has mediaeval origins, with its name deriving from part of the manor at the 'Meaburn' – meadow stream – having been sequestered by the Crown following the untimely demise of Thomas à Becket in 1170 and gifted to a lady named Maud, according to an information board in the village. A small river, the Lyvennet Beck, flows through the village to the east of the main road. Leading east at the northern end of the village is Brackenslack Lane, an uphill road surrounded by agricultural fields and some woodland leading to Great Asby. The appeal property lies towards the bottom of the hill immediately north of this lane, to the east of the main road and river.
23. To the south lies the Scheduled Ancient Monument ('SAM') of the 'shrunk mediaeval village' and the existing larger village which is largely linear in form, with properties mostly adjoining the main road and a further parallel minor road on the eastern side of the river. The river is bridged by Brackenslack Lane and again to the south by the road leading to Appleby, and the settlement mainly lies between these bridges. An historic 'toft and croft' arrangement of properties is still very much in evidence, with a number of linear fields stretching away from the properties fronting the roads and river.
24. Thus there is much of historic significance within the village, which contains several listed buildings as well as the SAM, and around which the Conservation

Area boundary is widely drawn to extend around the crofting field pattern. The barn at the appeal site is not listed, but it is considered by the Authority to be a non-designated heritage asset. It is thought to be around 120 years old, described by the Authority's Historic Environment Officer ('HEO') as a visually distinctive large barn, of some historic significance. At the time of application E/03/5, the HEO noted the very fine stonework and quality tooling, demonstrating the significant investment and value of the barn at the time of its construction.

25. The officer's report on application E/03/5 recorded that the application had been through several amendments as additional openings to the building as part of the conversion works were negotiated away. At the time of that permission, there were to be no new openings other than three new rooflights. Against that background, it was considered that the proposal constituted a sensitive conversion of an important building ensuring its long term future and enhancing its contribution to the character and appearance of the Conservation Area. Contemporaneous photographs show the barn to have been in a state of some disrepair, although apparently structurally sound.
26. There have been various minor departures from the approved plans against which the Authority has not thought it expedient to enforce, with the crucial issues in Appeal C, and allegation 3(i) of the notice, being the insertion of one first floor window and in Appeal C the proposed insertion of another. The background facts are that the internal configuration of the barn has changed from the layout originally considered, with the result that the staircase now leads directly into the kitchen. Some change is necessary to satisfy Building Control requirements: either alternative fire escapes from the first floor, such as the windows, without needing to use the staircase, or a reconfiguration of the ground floor so that the kitchen is separated from the staircase and a direct means of egress.
27. However those facts (and the stated reasons for the internal arrangement having been reconfigured) do not ultimately affect my conclusions on this matter, because, on balance, I find that the alterations to the fenestration can be carried out without overall harm to the non-designated asset of the barn and without harm to the character or appearance of the Conservation Area.
28. The Authority refers me to Appendix G of the 2010 Eden District Council's Housing SPD with its advice that agricultural buildings are characterised by few window and door openings, with the general thrust of the advice being that new non-essential openings should be avoided. The District Council's attitude, as expressed in Appendix G, and adopted by the Authority, is that traditional farm buildings should remain unaltered and remain looking like farm buildings even after conversion.
29. Policy RUR3 of the Eden Local Plan 2014 – 2032 is permissive of rural conversions where no significant alterations are required and the development can take place without having an adverse effect on the historic environment or local character. Policy ENV10 requires all proposals for development to conserve and, where appropriate, enhance the significance of the district's heritage assets and their settings. Policy DEV5 requires new development to protect features and characteristics of local importance.

30. As well as these relevant development plan policies, I have had regard to national policy advice in the National Planning Policy Framework ('the Framework'), especially Chapters 15 and 16 as they concern the conservation of the natural and historic environment. Additionally I am mindful of my duty under section 72 of the Listed Buildings Act 1990 to pay special regard to the desirability of preserving or enhancing the character or appearance of the Conservation Area, and to my duty under the National Parks &c. Act 1949 to have regard to the statutory purposes of the National Park including the conservation and enhancement of its cultural heritage.
31. At the time of determining application E/03/5, the Authority considered that the changes then proposed to enable the future of the asset to be safeguarded would result in an enhancement to the Conservation Area. Whilst the scheme then approved may be preferable to the Authority, the main question in the current appeal is whether the development now proposed would fail to preserve or enhance the character or appearance of the Conservation Area or the cultural heritage of the National Park. The heritage benefit of securing the future of the asset would remain, and is a matter to which I attribute considerable weight. The insertion of two relatively small first floor openings would in my view result in a neutral effect on the heritage assets overall.
32. The property is prominently sited, and is visible from the public realm on all sides. The principal elevation is undoubtedly the western face of the property, with four ground floor openings including the large cart door. The existing northern first floor window is unobtrusive, visible only in quite long range views, and does not compromise the perception of the building as an original agricultural barn.
33. Nor, overall, do I conclude that the insertion of a first floor window to the eastern elevation would have this effect. I acknowledge that the particular history of this barn is that it has never had any first floor openings, but I consider that the limited size and proportion of the proposed window, including its reveal, is so small in relation to the dominance of stonework in the elevation that the agricultural fenestration is not significantly disturbed. The small sizes and secondary locations of the 2 windows are not sufficient in my view to substantially diminish the solid agricultural character or appearance of the building, including when taken together with the rooflights and the other works that have taken place to the building. That appearance has been diminished by other aspects of the works that have taken place on the site, affecting the setting of the building, that I turn to below. I consider that the conversion of the building to a dwellinghouse, including the alterations of the existing and proposed windows and the other works that have taken place, would not harm the significance of the building or the Conservation Area, and would not adversely affect the cultural heritage of the National Park.
34. I therefore consider that allowing the proposal is consistent with my duties under the relevant legislation and with the development plan policies to which I have referred above. The alterations are not significant and no overall adverse effect on the historic environment or local character would result, consistently with policy RUR3. The significance of the heritage asset would be conserved, consistently with policy ENV10. Features and characteristics of local importance will be protected, in accordance with policy DEV5.

35. Therefore, subject to the imposition of planning conditions, to which I will return below, Appeal C succeeds and I shall grant retrospective planning permission for the conversion of the barn to a three bedroomed dwellinghouse as has been carried out, and planning permission to allow the insertion of the proposed eastern first floor window, in the terms set out in my Formal Decision below and subject to the planning conditions I set out there.
36. Conditions are necessary to make the development acceptable in a number of respects. Compliance with the plans is required for the remaining elements of the development, notably the eastern window. Permitted development rights to make further changes to the building or its curtilage are withdrawn, in order to preserve the character and appearance of the Conservation Area, and this would include the preservation of architectural features. Guttering and downpipes are already installed and so no condition is necessary. External lighting and a bin storage area (which in the event may make use of an existing outbuilding) require controls in the interests of preserving the area's character. A landscaping scheme is required for the same reason. This would involve landscaping features on land outside the application site (but within the appellant's ownership or control) and accordingly the proposed condition has been re-worded so that it is enforceable against the application site. A condition concerning surface water run-off is not justified by the local highway authority and I consider it unnecessary. Protected species mitigation measures are required in accordance with the mitigation strategy set out in the survey submitted with the original application E/03/5.
37. I do not however consider that it would be appropriate to vary the enforcement notice to delete the requirement to remove the existing first floor window, or to grant a separate permission for that aspect. The development as a whole, including that window, is acceptable only subject to the planning conditions I have imposed on Appeal C. Insofar as the enforcement notice is inconsistent with the permission I am granting under Appeal C, it shall cease to have effect, by reason of the operation of section 180 of the 1990 Act. It is therefore unnecessary for me to vary the notice in this regard, or to grant a separate permission for the existing first floor window on the deemed application and the Appeal A appeal on ground (a).

(ii) Change of use and engineering operations to create garden area to the north and east of the dwellinghouse

38. As Appendix G to the Housing SPD notes, even the most sensitive conversion can be spoilt by inappropriate changes to the setting of the building. Photographs show that part of the land to the western side of the building has historically been enclosed by a drystone wall, which appears to be commensurate with the 'red line' site plan D.02 approved under application E/03/5 and which appears to have delineated the curtilage of the barn. That site plan closely enclosed the barn on its northern and eastern sides. The adjoining land to the east slopes down towards the dwelling, and photographs also show that the earth had previously banked up against the eastern elevation of the barn to a height of around a metre at its northern end, decreasing towards the eastern door and the adjoining highway.
39. Recent works have extended the garden area to the north and east, levelling the ground around the barn to a distance of around 12m to the east and around 5m to the north, and with the construction of high retaining walls

against the remaining field area. These works have had the effect of detaching the building from its adjoining agricultural setting and seriously diminish the perception of the building's historic function in that setting. They have a significant urbanising effect that I find to be considerably harmful.

40. The first statutory purpose of National Parks is the conservation and enhancement of their natural beauty, wildlife and cultural heritage. National policy in the Framework insists that great weight be given to conserving landscape and scenic beauty in these areas. Policies DEV5, ENV10 and RUR3 are aimed at giving effect to this purpose, by requiring new development to complement and enhance the existing area, conserve the setting of heritage assets, and require that building conversions do not adversely affect the landscape or the rural character of an area. Because of the serious policy conflict that arises in these respects, this part of Appeal D, and ground (a) of Appeal A as it relates to this aspect of the notice (allegation 3(ii) and step 5.2), must fail.
41. There is also an appeal against the notice on ground (f) which is that the steps required by the notice exceed what is necessary to remedy the breach of planning control, or the injury to amenity as the case may be. The appellants' case is that the red line plan of the approved D.02 drew a curtilage 1m away from the building, and that this therefore approved the excavation of 1m around the perimeter of the building to allow for pedestrian access. This also provided a break between the eastern slope and the wall of the barn to prevent water seeping into the barn, said to be one of the historic issues.
42. Plan D.01e did not show any adjoining land levels, and I do not consider that the permission granted under reference E/03/5 approved any excavation works, implicitly or otherwise. Nonetheless I do not consider that it would be reasonable to have to reinstate the previous land levels in their entirety, which would involve an earth embankment immediately adjacent to the wall of the dwelling. I accept the appellants' case that the consequences for drainage may damage the fabric of the building. I consider that a limited functional margin to allow pedestrian access, as well as the drainage that has been installed to a distance of just under 2m, between the dwelling and the reinstated land levels could be put in place without it having the effect of divorcing the building from its agricultural setting so as to result in the policy conflict and harm to the amenity of the landscape that I have identified as arising from the existing arrangement. A retained embankment at 2m from the building would in my view be perceived as a measure to protect the building and the pedestrian means of access to it that could as readily be attributable to its historic agricultural use as to its existing one. That would be in marked contrast to the expansive area for private domestic enjoyment created by the existing arrangement.
43. Therefore ground (f) on Appeals A and B succeeds, to the extent that the requirements to dig up the hardsurfaced area and reconfigure the ground levels to those pre-existing will be amended to require this to be done to a distance of 2m from the dwellinghouse.
44. Whether any retaining wall would still be required at this distance is not addressed in detail by the parties. At a distance of 2m from the dwelling, I am not convinced by the evidence before me that a retaining wall for the embankment would be required. Therefore I do not impose a requirement to

take steps to create one. If this is thought necessary, it would be appropriate to consider this under the necessary landscaping scheme I shall require by a planning condition attached to the permission I grant when allowing Appeal C.

(iii) Garage store/agricultural shed

45. Having declined to allow the retention of the levelled area where the garage store/agricultural shed is proposed to be sited, it follows that the appeal is necessarily dismissed in relation to this element of Appeal D, and I do not need to consider it further.

(iv) Timber shed in the curtilage

46. The shed that has been erected in the curtilage of the dwelling lies to the north of the stone built piggery building and to the south of the proposed agricultural barn for which prior approval has been given. It has a typically domestic appearance and at the time of my site visit had been partly stained dark green, with the remainder having a natural wooden appearance.
47. Appendix G of the Housing SPD advises that garden sheds in the setting of barn conversions are unacceptable, and that storage provision should be made within existing buildings. It goes on to advise that the design and materials of ancillary buildings should be of traditional materials and form and should aim to harmonise with the existing building.
48. I see no reason to depart from this advice. The shed considerably domesticates the setting of the building, detracting from its agricultural character and setting in the landscape. It is therefore contrary to policy RUR3, requiring that a building and its curtilage are developed without having an adverse effect on the historic environment or local character. Appeals A, B and D are dismissed in relation to this element.

(v) Chicken sheds

49. Three further sheds have been erected on the land in the other locations approximately marked X on the plan attached to the enforcement notice. The appellants explain that these sheds form an important part of their retirement plans to generate an income. No detailed justification for the sheds is provided.
50. The sheds have been stained a dark green colour, and are spaced throughout the site. The easternmost shed lies within a small area of woodland, described as a former quarry, and is inconspicuous. Partly as a result of its stained colour, I do not find this shed to result in any landscape harm. The westernmost shed is towards the bottom of the hill and for the most part is seen against the backdrop of a stone wall. It again is largely inconspicuous and, subject to a condition that it be kept stained the same colour, I do not find it to be harmful.
51. The remaining shed is however considerably noticeable on the hillside. Despite having been stained the same colour as the others, and despite the various fences and chicken coops also on the field, it appears jarringly prominent. I have insufficient justification before me of any need for it that might overcome the landscape harm that I consider arises from it.

52. I have noted above that these 3 sheds do not fall within the application site applicable to Appeal D, and therefore I do not consider them as part of that proposal. I shall partly allow Appeal A on ground (a) to grant permission for the westernmost and easternmost sheds.
53. For the same reasons as those set out under issue (i) above concerning the operation of section 180 of the 1990 Act, I will not vary the requirements of the notice. To the extent that it is inconsistent with the conditional permission I grant on the deemed planning application, it will cease to have effect.

(vi) Incubator/chicken shed

54. The final main element of the developments under appeal is the incubator, also described as a chicken shed, forming part of Appeal D. The appellants say this is no longer required. The shed is shown on the relevant plan to be a flat-roofed timber structure adjoining the old piggery building, lying beyond it to the west in the existing agricultural field. The proposed shed has a rather domestic appearance and would obscure the view of the stone piggery building. I therefore find that it too would be unacceptably intrusive in the landscape and would detract from the agricultural setting of the barn, contrary to policies ENV10 and DEV5. I dismiss this element of the appeal.

Summary and Conclusions

55. For the foregoing reasons, I find the windows in the barn, a functional excavation and levelling of a 2m strip around the barn, and two of the chicken sheds to be acceptable, subject to relevant planning conditions, but all other elements of the appeals not to be. I summarise how I shall give effect to these findings as follows.
56. **Appeal D** is dismissed.
57. **Appeal C**, as I re-describe the proposal, is allowed and planning permission granted subject to several planning conditions. Where still appropriate, these largely repeat those imposed on the original permission E/03/5, although necessarily re-worded to account for the permission being granted for development that has already been carried out. In order to accommodate the requirement for off-site landscaping works, the relevant condition provides for the permitted use of the building as a dwellinghouse to cease if the requirements are not met within the time periods stipulated.
58. **Appeal B** succeeds in part, to the extent that I vary the requirements to reinstate the entirety of the former ground levels and associated works.
59. **Appeal A** succeeds in part, on the same basis as Appeal B. It succeeds additionally on ground (a) in respect of 2 of the chicken sheds, where I shall grant planning permission for their retention, subject to a condition that they be kept stained a dark green colour.
60. For the reasons set out above, I shall not vary the notice's requirements to remove the northern window, or grant planning permission on the deemed application for that element. These steps are unnecessary given the conditional permission I am granting under Appeal C which would override any inconsistent requirements of the notice.

61. Although section 177 of the Act permits me to grant permission for part only of a development enforced against, I have not found the hardstanding an appropriate case to grant a partial permission on the deemed application. The retained 2m perimeter will only be acceptable once the other works required by this part of the notice are completed. By varying the requirement, but not the allegation, I am underenforcing, and section 173(11) of the Act will deem a permission to have been granted for the 2m perimeter of hardstanding once the other elements are complied with.

Time for Compliance

62. Before setting out my formal decisions, I turn to the time for compliance with the notice: the ground (g) appeals. The appellants cite personal circumstances and cost as reasons to justify extending the period for compliance. However, the factors cited do not explain why complying with the notice within 12 months, as sought, would be any more or less likely than doing so within 6 months. The successful appeal on Appeal C provides an opportunity for the appellants to avoid the more significant costs associated with the notice.

63. Therefore I uphold the 6 month period for compliance as stipulated.

Formal Decisions

APPEAL A

64. It is directed that the enforcement notice be corrected as follows:

- (i) Delete paragraph 3(i) and replace it with "Installation of a first floor window in the northern elevation of the dwellinghouse situated on the land".
- (ii) In paragraph 3(iii), delete "X" and replace it with "A, B, C and D".
- (iii) In paragraph 5.1, delete "window in the north gable" and replace it with "first floor window in the northern elevation of the dwellinghouse".
- (iv) by the substitution of the plan annexed to this decision for the plan attached to the enforcement notice.

65. It is directed that the enforcement notice be varied as follows:

- (i) In paragraph 5.2, following "walls," and before "dig" on the first line, insert "save for an area not exceeding a 2 metre perimeter around the northern and eastern external walls of the dwellinghouse,".

66. Planning permission is granted on the application deemed to have been made under section 177(5) of the 1990 Act for the erection of the sheds marked 'B' and 'D' on the substituted plan attached to this decision, subject to the following condition:

- (1) The sheds hereby permitted shall be kept permanently stained a dark green colour.

67. The appeal is otherwise dismissed and the enforcement notice is upheld as corrected and varied.

68. Planning permission is refused in respect of the matters set out in paragraph 3 of the notice, save, in relation to that refusal, to substitute 'A, B, C and D' with 'A and C' of paragraph 3(iii), on the application deemed to have been made under section 177(5) of the 1990 Act.

APPEAL B

69. It is directed that the enforcement notice be corrected as follows:

- (i) Delete paragraph 3(i) and replace it with "Installation of a first floor window in the northern elevation of the dwellinghouse situated on the land".
- (ii) In paragraph 3(iii), delete "X" and replace it with "A, B, C and D".
- (iii) In paragraph 5.1, delete "window in the north gable" and replace it with "first floor window in the northern elevation of the dwellinghouse".
- (iv) by the substitution of the plan annexed to this decision for the plan attached to the enforcement notice.

70. It is directed that the enforcement notice be varied as follows:

- (i) In paragraph 5.2, following "walls," and before "dig" on the first line, insert "save for an area not exceeding a 2 metre perimeter around the northern and eastern external walls of the dwellinghouse,".

71. Subject to these corrections and variations, the appeal is dismissed and the enforcement notice is upheld.

APPEAL C

72. The appeal is allowed, and planning permission is granted:

- (i) For development already carried out consisting of the change of use of barn to three bedroomed dwelling with associated alterations; and
- (ii) for a first floor window in the eastern elevation of the dwelling,

subject to the following conditions:

- (1) The development hereby permitted shall be carried out in accordance with approved plans Existing Converted Barn L1/18/1710 and Site Plan L3/18/2410.
- (2) Notwithstanding the provisions of article 3 and Classes A, C, D, E, F, G and H of Part 1, Classes A, B and C or Part 2 and Classes A, B, C, D, E, F, G, H and I of Part 14 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 or any Order revoking, re-enacting or modifying that Order, no development of the description in these Classes including enlargements, improvements or alterations to the dwellinghouse, addition or alteration to the roof, porch, installation of gas/oil container or the installation, construction of outbuilding or enclosure, swimming or other pool incidental to the enjoyment of the dwellinghouse or the maintenance, improvement or other alteration of such a building or enclosure, alteration or

replacement of satellite antenna, provision of a hard surface or formation, laying out and construction of an access, shall be carried out on the site except in accordance with a planning permission granted by the Local Planning Authority.

- (3) Within 3 months of the date of this decision a lighting scheme showing all proposed and existing external lighting at the site including the design, location and level of illumination and a timetable for its implementation shall be submitted to and approved in writing by the Local Planning Authority. The lighting scheme shall be implemented in accordance with the approved timetable and the lighting retained as such thereafter.
- (4) Within 3 months of the date of this decision, details of a proposed bin store and a timetable for its installation shall be submitted to and approved in writing by the Local Planning Authority. This should include facilities for the source separation and/or storage of different types of waste generated by the development. The development shall be carried out in accordance with the approved details within the approved timetable and retained thereafter.
- (5) The use hereby permitted shall cease within 3 months of the date of the failure to meet any one of the requirements set out in (a) to (d) below:
 - (a) within 3 months of the date of this decision a scheme of landscaping shall have been submitted for the written approval of the local planning authority and the scheme shall include a timetable for its implementation. This scheme shall provide details of the following:
 - i) all existing trees, hedgerows and other plants, walls, fences and other features which it is proposed to retain on the site the subject of this permission and on adjoining land in the same ownership;
 - ii) the area(s) whether within or adjoining the site to which this permission relates in which new plantings of trees and/or shrubs will take place, the species of plant(s) to be used, their size, their number, their spacing and the means to be used to maintain, support and protect them;
 - iii) other landscape treatments to be carried out or features to be created including remodelling of existing landforms, treatment of the proposed parking and turning area, hard surface treatments, paving and any proposed boundary treatments whether on the site or on adjoining land in the same ownership;
 - (b) within 9 months of the date of this decision, if the local planning authority refuse to approve the scheme or fail to give a decision within the prescribed period an appeal shall have been made to, and accepted as valid by, the Secretary of State;
 - (c) if an appeal is made in pursuance of (b) above, that appeal shall have been finally determined and the submitted scheme shall have been approved by the Secretary of State;

- (d) the approved scheme shall have been carried out and completed in accordance with the approved timetable.
- (6) The approved landscaping shall be completed in accordance with the timetable approved by condition 5 and in accordance with the following:
- All trees, shrubs and hedge plants supplied shall comply with the standards of British Standard 3936 - Specification for Nursery Stock. All pre-planting site preparation, planting and post-planting maintenance shall be carried out in accordance with the requirements of British Standard 4428 (1989) Code of Practice for General Landscape Operations;
 - All new tree plantings shall be positioned in accordance with the requirements of Table 2 of British Standard 5837 A Guide for Trees in Relation to Construction;
 - Any trees, shrubs or hedges planted in accordance with this condition which are removed, die, become severely damaged or seriously diseased within 5 years of planting shall be replaced within the next planting season by trees, shrubs or hedging plants of like size and species to those originally required to be planted.
- (7) Within 3 months of the date of this decision, there shall be submitted to and approved in writing by the local planning authority precise details of the location of the proposed mitigation detailed in the protected species survey report carried out by Steve Wake, received by the local planning authority on 14 October 2016, including the wall roost cavity, number and location of access points to be left or created in the roofing slates and walls, and number and location of alternative nesting ledges for swallows and a timetable for their installation. The approved mitigation measures shall then be installed in accordance with the approved details and timetable and thereafter retained.

APPEAL D

73. The appeal is dismissed.

Laura Renaudon

INSPECTOR

Scale: Do Not Scale

