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## Appeal Decisions

Site visit made on 24 June 2025

by **F Harrison BA(Hons) MA MRTPI**

an Inspector appointed by the Secretary of State

**Decision date: 3 July 2025**

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### **Appeal A Ref: APP/K0940/W/25/3362408**

#### **Tarn Hill Shed, Clifton Dykes, Penrith CA10 2DH**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant approval required under Article 3(1) and Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
- The appeal is made by Lonsdale Settled Estate against the decision of Westmorland and Furness Council.
- The application Ref is 2024/2417/PACOU.
- The development proposed is the change of use of an agricultural building to a dwellinghouse.

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### **Appeal B Ref: APP/K0940/W/25/3362413**

#### **Tarn Hill Dutch Barn, Clifton Dykes, Penrith CA10 2DH**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant approval required under Article 3(1) and Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
- The appeal is made by Lonsdale Settled Estate against the decision of Westmorland and Furness Council.
- The application Ref is 2024/2416/PACOU.
- The development proposed is the change of use of an agricultural building to a dwellinghouse.

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## Decision

1. Appeal A is allowed, and prior approval is granted under the provisions of Article 3(1) and Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (GPDO) for the change of use of an agricultural building to dwellinghouse at Tarn Hill Shed, Clifton Dykes, Penrith CA10 2DH in accordance with the terms of the application, Ref 2024/2417/PACOU, subject to the conditions in paragraph Q.2(3) of Schedule 2, Part 3, Class Q of the GPDO in that development must be completed within a period of 3 years from the date of this decision, as well as the provisions specified in paragraph W and the following conditions:
  - 1) Prior to the occupation of the development hereby permitted access works shall be implemented, in accordance with a scheme that shall have first been submitted to and approved in writing by the local planning authority. The works shall include:
    - The provision of 2.4 metre by 120 metre visibility splays in each direction that shall be free of any obstruction exceeding 0.6 metres in height at the junction of the access road with the highway.
    - The implementation of the means of access for vehicles, in line with the Cumbria Development Design Guide, which shall be a minimum width of 4.1 metres for the first 10 metres of the access.
    - The implementation of a vehicle turning space and car parking in line with the Cumbria Development Design Guide bedroom to parking space ratio.

The arrangements shall be retained as such thereafter.

- 2) The route of Public Right of Way number 315003 within the red edge plan must remain open and unobstructed at all times, including during the construction stage.
2. Appeal B is allowed, and prior approval is granted under the provisions of Article 3(1) and Schedule 2, Part 3, Class Q of the GPDO for the change of use of an agricultural building to dwellinghouse at Tarn Hill Dutch Barn, Clifton Dykes, Penrith CA10 2DH in accordance with the terms of the application, Ref 2024/2416/PACOU, subject to the conditions in paragraph Q.2(3) of Schedule 2, Part 3, Class Q of the GPDO in that development must be completed within a period of 3 years from the date of this decision, as well as the provisions specified in paragraph W and the following conditions:
- 1) Prior to the occupation of the development hereby permitted access works shall be implemented, in accordance with a scheme that shall first have been submitted to and approved in writing by the local planning authority. The works shall include:
    - The provision of 2.4 metre by 120 metre visibility splays in each direction that shall be free of any obstruction exceeding 0.6 metres in height at the junction of the access road with the highway.
    - The implementation of the means of access for vehicles, in line with the Cumbria Development Design Guide, which shall be a minimum width of 4.1 metres for the first 10 metres of the access.
    - The implementation of a vehicle turning space and car parking in line with the Cumbria Development Design Guide bedroom to parking space ratio.

The arrangements shall be retained as such thereafter.

- 2) The route of Public Right of Way number 315003 within the red edge plan must remain open and unobstructed at all times, including during the construction stage.

### **Preliminary Matters**

3. The descriptions of development above have been taken from the decision notices, removing wording that does not relate to acts of development, as they succinctly describe the proposals. The above legislative provisions were updated on 21 May 2024. However, due to transitional arrangements, this appeal should be determined in accordance with the previous 1 August 2020 version of the GPDO.
4. The appeals concern adjacent sites, have been made by the same appellant and raise similar issues. I have therefore dealt with both appeals together in a single decision letter to avoid repetition. However, I have considered each appeal on its individual merits.

### **Background and Main Issues**

5. Schedule 2, Part 3, Class Q of the GPDO permits the change of use of agricultural buildings to dwellings. Sub part (a) refers to the change of use and (b) refers to the building operations reasonably necessary for the conversion. Paragraph Q.1 goes on to set out several limitations of Class Q. The appeals relate to the change of use of agricultural buildings to dwellings. The Council contend that the proposed works

go beyond what is reasonably necessary to convert the buildings and so would not be permitted development. No consideration was given to the prior approval matters listed in GPDO paragraph Q.2(1).

6. Consequently, the main issues in respect of Appeal A and Appeal B are:
- whether the proposals would constitute permitted development under Schedule 2, Part 3, Class Q of the GPDO, with particular regard to whether the extent of the proposed works would be reasonably necessary to convert the buildings to dwellings; and
  - if permitted and not excluded under Class Q, whether the prior approval details would be acceptable.

## Reasons

### *Whether permitted development*

7. The appeal sites are located to the west of a group of buildings, including dwellings and outbuildings. The site at Appeal A accommodates a portal frame building, enclosed on three sides by corrugated sheets, open on the remaining side, and with a corrugated roof covering. The site at Appeal B accommodates a steel frame Dutch barn, enclosed on two sides by corrugated sheets, partially enclosed with corrugated sheets on one side and open on the remaining side, and with a corrugated roof covering.
8. GPDO paragraph Q.1(i) states that development under Class Q(b) is not permitted if it would consist of building operations other than the installation or replacement of windows, doors, roofs, or exterior walls, or water, drainage, electricity, gas or other services, to the extent reasonably necessary for the building to function as a dwellinghouse.
9. The Planning Practice Guidance (PPG)<sup>1</sup> advises that the right under Class Q assumes that the agricultural building is capable of functioning as a dwelling. However, the PPG is clear that it is not the intention of the permitted development right to allow rebuilding work that would go beyond what is reasonably necessary for the conversion of the building to a residential use. It is only where the existing building is already suitable for conversion to residential use that the building would be considered to benefit from the permitted development rights.
10. Neither the GPDO nor the PPG define the term 'reasonably necessary'. Consequently, this is a matter of planning judgement. Both parties have drawn my attention to the Hibbitt Judgment<sup>2</sup>, which is also referenced in the PPG. Hibbitt related to the conversion of an agricultural building that was open to all four sides and the judgment considered whether the works required to bring about the change of use amounted to a re-build or 'fresh' build as opposed to a conversion.
11. The appellant's structural assessments, undertaken by a suitably qualified engineer, indicate that despite the identification of relatively minor areas of surface corrosion and distorted cladding, the main structures of both appeal buildings were found to be suitable for conversion to a dwelling. In respect of the Appeal A

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<sup>1</sup> Paragraph 105 Reference ID: 13-105-20180615

<sup>2</sup> Hibbitt and another v Secretary of State for Communities and Local Government (1) and Rushcliffe Borough Council (2) [2016] EWHC 2853 (Admin)

building, in coming to this conclusion the engineer took account of the identified slight outwards lean of the portal columns as detailed in the assessment.

12. Remedial works are recommended to treat areas of corroded steelwork and to repair all rainwater goods as necessary for both buildings. Given their nature and extent, the proposed repairs do not amount to significant works to the buildings' structures, and the structural assessments confirm that the entire frames of the buildings would be utilised for the proposed conversion, albeit with a suitable internal thermal walling system to make the buildings suitable for residential use. Furthermore, it is not disputed that the steel frame structure of both buildings would remain as the main structural element of the proposals. It has not been shown in evidence that it would not be possible to tie in an internal timber frame with the existing steel frame to facilitate the conversion or that punching through the existing external walls for the proposed openings would affect either building's structural stability. Consequently, from my observations and taking account of the evidence presented, I have no clear reason to find otherwise that the existing buildings are structurally strong enough for conversion.
13. The overall form and scale of the existing buildings would be retained with modest redesign and remodelling to facilitate their conversion. The As Proposed plans (2282.04 002 and 2282.03 002) show that the existing walls and roofing would be retained, and works would include the installation of exterior walls where they are currently open and the installation of new openings. Class Q.1(i)(i) (aa) allows for the installation or replacement of roofs, openings and exterior walls and so the proposed works would be within the scope of Class Q and there is no clear indication that these elements would amount to new structural works required to make either building structurally sound. Taking this and my own observations into account, the works would be reasonably necessary to make the buildings weatherproof and suitable for human habitation.
14. While the conversions would involve internal works, the PPG<sup>3</sup> confirms that for a building to function as a dwelling it may be appropriate to undertake internal structural works, including to allow the insertion of an upper floor or internal walls which are not prohibited by Class Q. Notwithstanding that the buildings have some open sides, the proposed works do not represent either substantial rebuilding of the pre-existing structures or fresh new builds. Therefore, while the principles established within the Hibbitt Judgment are relevant, I do not see sufficient similarities between that case and the appeal schemes.
15. Accordingly, to conclude on this main issue, I find that the proposed works would be reasonably necessary to convert the buildings to dwellings and would not exceed the limitations set out in GPDO paragraph Q.1(i). As such, the proposals would constitute permitted development under Schedule 2, Part 3, Class Q of the GPDO.

#### *Prior approval matters*

16. GPDO Paragraph Q2(1)(a) to (g) relates to prior approval details, including highways, noise, contamination, flooding, location or siting, design or external appearance, and the provision of natural light in all habitable rooms. Although the Council had not assessed these elements during the determination of the planning

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<sup>3</sup> Paragraph: 105 Reference ID: 13-105-20180615

application, I note that no objections were raised in relation to Class Q.2(1) matters within the Council's appeal submissions.

17. I have carefully considered interested parties' comments in relation to highway safety. However, with the imposition of conditions discussed below, the proposals would not have a detrimental effect on highway safety. The Local Highway Authority raised no objection in this regard. While there are concerns regarding the potential for an access adjacent to the property known as Cockerel Cottage this is not what is proposed. Concerns have also been raised regarding the effect of the proposals on existing surface water flooding issues however the Lead Local Flood Authority did not object to the proposals, and I have no clear reason to come to a different view.
18. At the time of my site visit the buildings were being used for the storage of hay and an interested party has provided photographs showing the buildings being used for agricultural storage and suggested that they are an integral part of the working farm. Nevertheless, the appellant has indicated that Tarn Hill Farm continues to function as a dairy farm and the buildings are considered to be isolated and not required for the agricultural operation. There is no substantive evidence that it would be undesirable for the buildings to change from agricultural use to dwellinghouse without the occupancy being restricted to primary residence.
19. Furthermore, whether the agricultural buildings should be retained, and whether there is a need for residential dwellings in the area, are matters outside of the remit of this appeal. Similarly, interested parties have also commented on a range of other matters that fall outside of the scope of prior approval details, including electric car charges which would be covered by buildings regulations in any event, broadband provision and sustainable design and construction.
20. Overall, based on my observations and the consultation responses received for both Appeal A and Appeal B, there is no substantive evidence before me to conclude that prior approval should not be forthcoming.

### **Other Matters**

21. The appeal site lies within the zone of influence of the River Eden Special Area of Conservation, a European designated site protected pursuant to the Conservation of Habitats and Species Regulations 2017 (as amended) (the Habitats Regulations) in recognition of the significance of its ecological features.
22. Article 3(1) of the GPDO grants planning permission for the classes of development described as permitted development in Schedule 2 subject to Regulations 75-78 of the Habitats Regulations. Regulation 75 of the Habitats Regulations stipulates that written notification of approval by the local planning authority under Regulation 77 is required where development is likely to have a significant effect on a European site. Therefore, permitted development cannot be lawfully begun until a Regulation 77 application has been made and the Council has ascertained that the development will not adversely affect the integrity of the European site. Notwithstanding that the appellant is in agreement to submitting Regulation 77 applications, this is a matter for the main parties to address outside of these appeals before the developments starts.

## Conditions

23. Paragraph Q.2(3) of the GPDO states that development under Class Q is permitted subject to the condition that it must be completed within a period of three years starting with the prior approval date. Further standard conditions are set out in paragraph W.(12) that requires development to be undertaken in accordance with the details provided in the application. Paragraph W.(13) allows conditions to be imposed that are reasonably related to the subject matter of the prior approval.
24. A condition is necessary in relation to access works including visibility splays, width of the access and circulation areas and parking in the interest of highway safety. The PPG<sup>4</sup> states that pre-commencement conditions should only be used where there is a clear justification, which is likely to mean that the requirements of the condition (including the timing of compliance) are so fundamental to the development permitted that it would otherwise be necessary to refuse the whole permission. Notwithstanding that the proposed access could be used during the construction stage, taking account of my site visit observations, the existing use of the access by agricultural vehicles and the absence of any detailed explanation as to why the visibility splays are required to be installed before the development starts, in this instance a pre commencement condition on this matter is not justified.
25. It is also necessary to impose a condition to ensure the public right of way (PROW) remains free of obstruction in the interest of the use and enjoyment of the PROW network. The Council's ecologist has suggested a condition to ensure the development is carried out in accordance with the recommendations contained within the Preliminary Roosts Assessment Bats, Barn Owl and Nesting Birds (2024). However, as prior approval is granted in accordance with the details submitted with the application, which includes the assessment, it is not necessary to impose a separate condition to secure these measures.

## Conclusion

26. For the reasons given above, I conclude that Appeal A should be allowed and prior approval should be granted, and Appeal B should be allowed and prior approval should be granted.

*F Harrison*

INSPECTOR

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<sup>4</sup> Paragraph: 007 Reference ID: 21a-007-20180615