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## Appeal Decision

Site visit made on 9 April 2018

by **Zoe Raygen Dip URP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 30<sup>th</sup> April 2018

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**Appeal Ref: APP/V2255/W/17/3186835**

**Building at Sweepstake Farm, Lower Hartlip Road, Hartlip, Kent ME9 7TU**

- 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 Mr Gary Knight against the decision of Swale Borough Council.
  - The application Ref 17/501327/FULL, dated 5 March 2017, was refused by notice dated 30 June 2017.
  - The development proposed is the conversion of detached building into three bedroomed dwelling with provision of a single storey attached garage and change of use of associated land for residential garden.
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### Decision

1. The appeal is allowed and planning permission is granted for the conversion of detached building into three bedroomed dwelling with provision of a single storey attached garage and change of use of associated land for residential garden at building at Sweepstake Farm, Lower Hartlip Road, Hartlip, Kent ME9 7TU in accordance with the terms of the application, Ref 17/501327/FULL, dated 5 March 2017 subject to the conditions set out in the schedule to this decision notice.

### Procedural matter

2. The Council adopted the Bearing Fruits 2031: The Swale Borough Local Plan on 26 July 2017 (LP). This supersedes the policies from the 2008 Local Plan referred to in its decision notice. I have therefore determined the appeal with reference to the LP.
3. The Council refers to conflict with Policy DM10 of the LP within its reason for refusal. In its statement though, it confirms that this is an error and it should refer to conflict with Policy DM14 of the LP. I have determined the appeal on this basis.

### Main Issue

4. Having regard to the Council's stated reason for refusal, the main issue relates to whether or not the building the subject of the appeal has been marketed in an acceptable manner.

### Reasons

5. The appeal building forms a detached barn set back from the road within a small cluster of houses. It is two storey and mainly clad in dark wood.
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Openings are limited to a door and glazed areas to the east elevation and a large roller shutter door to the west elevation. At the time of my site visit, the ground floor of the premises was being used for the storage of building materials on behalf of the owner of the neighbouring house, where construction work is underway.

6. The proposal is to change the use of the barn to a house. Policy DM3 of the LP regarding supporting the rural economy, states that planning permission for residential development within the rural area will not be permitted where this would reduce the potential for rural employment and/or community facilities unless the building is demonstrated as having no demand for such purposes or its use would be undesirable or unsuitable. Paragraph 7.1.19 of the LP explains that even if the building is currently vacant, evidence will need to show that it is neither viable nor likely to become viable and that alternative employment uses have been robustly tested. This will also include the applicant having marketed the enterprise or the property for its commercial/community use for a reasonable period in a manner and at a price that reflects that use.
7. The property has not been marketed since 2011 when it was purchased by the appellant. Nevertheless, the appellant in support of his appeal has submitted a report from Harrisons, a local agent specialising in commercial and retail property. The report considers the likely demand and viability of a number of different uses within the barn.
8. It concludes that the wide range of uses considered would be unlikely to be viable. As a consequence, should the appeal be unsuccessful there would be little benefit from Harrisons placing the property on the market, in its opinion, due to the limited demand for other uses. This would be for a variety of reasons, but primarily due to its relatively isolated location and poor accessibility, particularly in winter months. The barn is accessed via narrow country lanes, with no footways or cycle paths and is some distance from the nearest settlement. Therefore, I share the concerns raised by Harrisons.
9. The Council considers that as the barn has been previously used for commercial storage then it could be again. However, the appellant states that the use of the barn has only ever been for the storage of cars on a non-commercial basis. Conflicting evidence is presented in the Council's draft application report regarding a current application for Lawful Development Certificate for alterations to the barn and regularisation of the use class (17/504544/LDCEX). Even if it were the case that the barn has been used for a commercial purpose in the past, the Council offers no substantive evidence to dispute the findings of the Harrisons report in terms of likely feasible future commercial or community use.
10. In addition I note that the Council's application report regarding the conversion of the buildings to the immediate north east of the appeal site to residential use (15/508567/FULL) concluded, based on the contents of an email from a reputable agent that the location and position of the buildings make them entirely unlikely to attract any form of business / employment / community use. While this is not determinative in itself, it reinforces the findings reached by the independent expert regarding the barn on the appeal site.
11. While the submitted evidence is not as comprehensive as that suggested by the explanatory text to Policy DM3, I am satisfied based on the information submitted by the appellant from a local agent that it has been adequately

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demonstrated that other uses for the building would not be viable and therefore there would be no conflict with Policy DM3 of the LP. As Policy DM14 of the LP requires that development should accord with the policies and proposals of the adopted Development Plan unless material considerations indicate otherwise, then it follows that there would also be no conflict with this Policy.

#### **Other matters**

12. Notwithstanding the sole reason for refusal set out on its Decision Notice, the Council consider that the building does not benefit from planning permission as the appellant cannot demonstrate that the building has been in any form of non-agricultural use for at least ten years. In addition, it is argued that the external works to the building to facilitate that non-agricultural use, are also unlawful despite having been carried out more than four years ago, as established in *Murfit v Secretary of State for the Environment 1980*. Consequently, the Council is currently considering the service of an enforcement notice against the building.
13. Whatever the case may be in this regard, even had I dealt with the proposal as being for the change of use of an agricultural barn, which was the original use of the building, to a dwelling, then in terms of the principle of the use proposed, based on the Council's reason for refusal, it is clear from my reasoning above, I would still have reached the same conclusion.
14. The alterations already carried out to the building can be considered as part of the scheme before me. The dark cladding matches that on the adjacent dwelling. Furthermore, I am mindful that the Council in its application report states that subject to changes to the proposed materials for the windows, door and rainwater goods, the proposed conversion works would be of a good standard of design that would mean the dwelling would sit comfortably within the Hartlip Conservation Area and the wider countryside.
15. I saw nothing on my site visit that would lead me to disagree with this view. I would agree that the use of timber and traditional materials for the windows, doors and rainwater goods would be more appropriate and would ensure that the proposal at least preserves the character and appearance of the conservation area. I note in his submission that the appellant has agreed to this approach. Such details could be secured through the imposition of a suitably worded condition should the appeal be allowed.
16. From the evidence before me it is apparent that the barn the subject of this appeal is near to the grade II listed buildings known as Sweepstakes Farm and its former outbuildings. I note from the comments of the Council's Design and Conservation Consultant he did not consider that the proposal would have a harmful impact on the setting of the listed buildings. From the evidence before me and my observations on site I see no reason to disagree with this view, and am satisfied that there would be no harm to their special interest which, from my observations on site, derives mainly from their historic form and particular architectural features.

#### **Conclusion**

17. For the reasons above, and having regard to all other matters raised, I conclude on balance that the appeal should be allowed.

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### Conditions

18. I have had regard to the various planning conditions that have been suggested by the Council and considered them against the tests in the National Planning Policy Framework and the advice in the Planning Practice Guidance and have made such amendments as necessary to comply with those documents. In the interests of certainty it is appropriate that there is a condition requiring that the development is carried out in accordance with the approved plans.
19. Conditions requiring the submission of details of materials, and the provision of hard and soft landscape works are necessary to protect the character and appearance of the area. Construction hours need to be restricted to protect the living conditions of neighbouring residents.

*Zoe Raygen*

INSPECTOR

### SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: site plan, EXT 01 Proposed Block Plan, EXT 01 Proposed Ground Floor, EXT 02, EXT 03, Ext 05, EXT 06, EXT 10 Proposed elevations, EXT 10 Existing Block Plan.
- 3) Other than site clearance and preparation works no works shall commence on the approved development until samples of external finishing materials including details of external windows, door units and rainwater goods have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved samples.
- 4) Other than site clearance and preparation works no works shall commence on the approved development until there shall have been submitted to and approved in writing by the local planning authority a scheme of hard and soft landscape works. The scheme shall include indications of all existing trees and shrubs, planting schedules of plants, plant species, sizes and numbers, means of enclosure, hard surfacing materials and an implementation programme.
- 5) All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.
- 6) All hard landscape works shall be implemented on site in accordance with the approved details prior to the occupation of the dwelling.

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- 7) Construction work in connection with the development shall take place only between the following hours:  
0730 - 1900 Mondays - Fridays  
0730-1300 Saturdays  
and shall not take place at any time on Sundays or on Bank or Public Holidays.