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## Appeal Decisions

Site visits made on 20 July and 11 September 2020

by **Nicola Davies BA DipTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 15 September 2020

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### Appeal A Ref: APP/ V2255/W/20/3246376

#### Little Place Farm, Yaughar Lane, Hartlip, Sittingbourne ME9 7XE

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Article 3, Schedule 2, Part 6, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
  - The appeal is made by Mr S Bearup against the decision of Swale Borough Council.
  - The application Ref 19/505557/AGRREQ, is dated 6 November 2019.
  - The development proposed is for a General-Purpose Agricultural Storage Building.
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### Appeal B Ref: APP/V2255/W/20/3246378

#### Little Place Farm, Yaughar Lane, Hartlip, Sittingbourne ME9 7XE

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Article 3, Schedule 2, Part 6, Class E of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
  - The appeal is made by Mr S Bearup against the decision of Swale Borough Council.
  - The application Ref 19/505587/AGRREQ, is dated 6 November 2019.
  - The development proposed is erection of a Forestry Machine building incorporating a log store and forestry workshop.
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## Decision

1. Appeals A and B are allowed and prior approval is granted for both Appeals A and B.

## Preliminary Matters

2. As set out above there are two appeals at this address and this decision letter deals with both.
3. The applications for prior approval were made under Article 3, Schedule 2, Part 6, Classes A and E of the Town and Country Planning (General Permitted Development) (England) Order (the Order) 2015 (as amended). The Council has not issued a decision notice in either case; however, it emailed letters to the applicant stating that 'prior approval is required'. The letters do not explicitly state that prior approval is refused despite indicating that planning permission would be required for the proposed developments. The appellant has appealed against non-determination following the display of a site notice as required when prior approval is required. I have therefore gone on to consider the appeals on the basis of them being against non-determination by the Council.

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4. Notwithstanding the above, the requirement for prior approval is akin to a pre-commencement condition attached to the grant of permission by Article 3 of the Order, and any development which is constructed not in accordance with the terms or conditions of the permission would be at risk of enforcement action. The prior approval procedure set out under Schedule 2, Part 6, Classes A and E of the Order makes no provision for any determination to be made as to whether the development would be permitted development and so I cannot purport to decide that question as it is outside my remit. I have sought further comments from the parties with respect to the siting, design and external appearance of the buildings for which prior approval is being sought and have taken the responses in to account.

#### **Main Issue**

5. The prior approval matters relating to Schedule 2, Part 6, Classes A and E include siting, means of construction, design and/or external appearance, allowing for the impact of the development on a listed building or the setting of a listed building to be considered. I consider the main issue in relation to both these appeals to be whether the proposed development would be acceptable in these respects.

#### **Reasons**

6. The buildings would be located in a countryside location and would be of standard agricultural/forestry design and appearance. The Council has confirmed that it considers the siting, design and external appearance of the buildings to be acceptable. It is noted that there are some land level changes on site, particularly to the east where the land slopes downwards. That said, there is established vegetation along the northern boundary of the site. Given their proposed siting within the appeal site the buildings would not be particularly prominent in public viewpoints. I conclude that in respect of siting, means of construction, design and/or external appearance, the proposed development would be acceptable.
7. The Council has advised that the land is not designated and there are no listed buildings nearby. Therefore, the proposed development would not have an impact on any listed buildings or their setting.

#### **Conclusion**

8. For the reasons give above, I conclude that in relation to both appeals prior approval should be granted. As such, Appeals A and B should be allowed.

*Nicola Davies*

INSPECTOR