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## Appeal Decision

Site visit made on 16 November 2023

by A Price BSc MA MRTPI

an Inspector appointed by the Secretary of State

**Decision date: 8 January 2024**

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**Appeal Ref: APP/V2255/W/22/3308376**

**Land to the south of Lees Court Road, Stocks Paddock, Sheldwich, Faversham ME14 0LU**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
  - The appeal is made by Mr Charad of Eden (Sheldwich) Limited against the decision of Swale Borough Council.
  - The application Ref 22/500831/OUT, dated 28 January 2022, was refused by notice dated 4 May 2022.
  - The development proposed is described on the application form as 'outline application for the creation of four self-build plots on land at Stocks Paddock, Sheldwich with layout, scale, appearance and landscaping reserved for subsequent approval.'
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### Decision

1. The appeal is dismissed.

### Preliminary Matters

2. The planning application was submitted in outline with all matters reserved. I have had regard to the submitted plans but have regarded all elements of these drawings as indicative.
3. The proposed development relates to the setting of listed buildings and lies within a conservation area. Accordingly, I have had regard to the statutory duties set out in sections 66(1) and 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act).
4. On 22 November 2023, all designated Areas of Outstanding Natural Beauty (AONBs) in England and Wales became 'National Landscapes'. I have made reference to this in my decision as the site is located in the former Kent Downs AONB.

### Main Issues

5. The main issues are:
  - whether the proposed development would provide a suitable location for housing, having regard to the accessibility of services and facilities;
  - the effect of the proposed development on the character and appearance of the surrounding area; and
  - whether the proposed development would preserve the settings of adjacent Grade II listed buildings, and the extent to which the

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development would preserve or enhance the character or appearance of the Sheldwich Conservation Area.

### Reasons

#### *Appropriateness of location*

6. The appeal site forms a parcel of land positioned adjacent to Lees Court Road, near to established residential properties and Sheldwich Primary School. Nevertheless, the appeal site undisputedly falls outside of any defined settlement boundaries and therefore within the open countryside. Sheldwich and Sheldwich Lees provide very limited services including a primary school and church.
7. The nearest larger settlements are Faversham and Ashford, which provide a greater number of services including local shops, public houses, secondary schools and doctors' surgeries. These settlements are located approximately 3 and 10 miles away.
8. I accept that the distance between the appeal site and those settlements is similar to that of nearby residential properties, including neighbouring Stocks Cottage. However, to reach services in those settlements by public transport, individuals would need to proceed along Lees Court Road and Ashford Road by foot or cycle. Those roads have limited footways and street lighting. To access the northbound services, individuals would also need to cross the busy Ashford Road, which has no dedicated crossing point. This would be particularly undesirable in winter months, after dusk or during inclement weather conditions. Moreover, the nearest bus stops provide only very limited services and could not be relied on to access services further afield. The appellant sets out that train stations, located approximately 2 miles away are within walking distance. However, I disagree. To reach those stations, individuals would need to use the same unsatisfactory routes as described above.
9. I acknowledge the appellant's comments in respect of electric car use. However, there is no certainty, or mechanism before me to ensure, that future occupiers would use electric vehicles, regardless of the provision of an electric vehicle point.
10. Paragraph 109 of the National Planning Policy Framework (the Framework) acknowledges that opportunities to maximise sustainable transport solutions will vary between urban and rural locations. However, in this location, the occupants of the proposed dwellings would be highly reliant on the use of private vehicles to access most services and facilities due to a lack of satisfactory cycling and walking routes and a lack of reliable public transport facilities within a reasonable distance of the site.
11. I have also had regard to the relevant provisions of paragraph 83 of the Framework, which relates to rural development. This aims to promote sustainable development in rural areas by ensuring that it is located where it will enhance or maintain the viability of rural communities. Notwithstanding the presence of a primary school near to the site, which may be supported by future residents, for the reasons given above in respect of accessibility, I find that the Framework's advice on rural development would not provide support for the dwellings proposed at the appeal site.

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12. For the above reasons, I conclude that the appeal site forms an inappropriate location for the development, contrary to the relevant provisions of Policies ST1, ST3, CP3 and DM14 of Bearing Fruits 2031: The Swale Borough Local Plan (LP, adopted 2017). These policies, when taken as a whole, seek to deliver sustainable development in appropriate places and to minimise the need to travel, as well as to facilitate sustainable transport options. This is in a similar vein to the objectives of the Framework insofar as sustainable transport is concerned.

*Character and appearance*

13. Although details are reserved, an indication of the proposed scheme has been put forward by the appellant. This sets out that it is anticipated that the site would provide a mixture of single-storey, 1.5 storey and two storey dwellings, although there is some conflicting evidence on this, with the design code specifying a maximum height of 1.5 storeys. Nevertheless, the proposed development would, in all likelihood, be visible from Lees Court Road, and from private vantage points. Despite some mature landscaping along Lees Court Road and the intended increase in planting, the proposed dwellings would likely be visible through gaps in that landscaping, with occasional breaks in coverage. Where visible, it would have a significant presence in front of the mature treeline that sits behind the site. I acknowledge the submitted landscape appraisal, which considers that effects would vary from no change to low/slight adverse to moderate adverse. I also acknowledge the appellant's proposal to infill gaps in landscaping. However, harmful change would occur to the site and its immediately surrounding area and, in any case, planting and boundary features cannot be relied on in perpetuity to give the same level of screening as at present, including during winter months.
14. As a result of the proposed development, the currently open and verdant nature of the site would be damaged and the development would have a harmful urbanising effect. The site is, at present, consistent with much of the countryside within the surrounding area, irrespective of the existence of some built form. Although the proposed dwellings would potentially be of a similar scale to those that exist to the immediate south and west, their presence would have a detrimental impact on the rural character of Sheldwich and surrounding area. I also note paragraph 182 of the Framework is clear that great weight should be given to conserving and enhancing landscape and scenic beauty in National Parks, the Broads and AONBs. This is particularly pertinent given the site's location within a National Landscape (formerly the Kent Downs AONB).
15. The appellant sets out that the site, together with adjoining built form, presents a strong entrance to Sheldwich Lees. Irrespective of the position of the nearby primary school, which I accept is at odds with the prevailing pattern and appearance of development within Sheldwich, it is evident that established built form peters out as you travel west along Lees Court Road from Sheldwich Lees. Accordingly, the scheme would fail to maintain what I see as the pleasant rural transition that currently occurs here. There is also a sense of separation between the cluster of properties at the junction of Lees Court Road with Ashford Road and those at Sheldwich Lees.
16. I accept that the appellant proposes a design with some sensitivity to rural vernacular building forms and layout, in particular noting the submitted design code, which would provide greater certainty post-permission. Nevertheless, the



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inclusion of built form here, consisting of multiple dwellings arranged around a central cul-de-sac within the site, would appear contrived and out of keeping with the prevailing pattern of development within the surrounding area.

17. For the above reasons, I conclude that the proposed development would be contrary to the relevant provisions of LP Policies ST1, CP3, and DM14 which, in summary, seek to achieve high quality design in development, including the conservation and enhancement of the natural environment.

#### *Heritage assets – special interest and significance*

##### The Stocks

18. The Stocks lies to the west of the site. It is a Grade II listed building<sup>1</sup> which dates from the 16<sup>th</sup> century. It is timber framed with plaster infill, painted brick and weatherboarding. It has a tiled hipped roof over with a catslide projection to the front. The building is thought to have been both a garage and a public house at some point in the past.
19. The special interest and significance of the listed building is largely derived from its historic and architectural interests. Important contributors in these regards are its age, illustration as a vernacular property that has evolved over time, and the use of traditional materials and building methods.
20. Pertinent to this appeal, the building's special interest and significance are also derived, in part, from its setting. The open but clearly defined front garden, together with enclosed rear garden, have an historic, visual and functional connection with the heritage asset. It is from these grounds that the asset is best appreciated. They form the asset's immediate setting. This immediate setting contributes considerably to the asset's special interest and significance. Beyond this, the surrounding area is made up of open countryside, with some development to the north and east. This surrounding area forms the asset's wider setting, from which only limited or fleeting views of the asset are possible. The development to the rear of the site has altered how the asset is experienced and thus has moderated the contribution the wider setting, which includes the appeal site, makes to its special interest and significance.

##### Barn (named as 'Barn, Now Garage About 10 Metres East of The Stocks' hereafter referenced as 'the Barn')

21. The barn is a Grade II<sup>2</sup> listed building. Its origins lie in the 17<sup>th</sup> century. It is a timber framed building built over a flint base with weatherboarding and a half-hipped roof over. The building is now in residential use.
22. The special interest and significance of the listed building is largely derived from its historic and architectural interests. Important contributors in these regards are its illustration as a vernacular former agricultural building and the use of traditional building materials and methods.
23. Pertinent to this appeal, the building's special interest and significance are also derived, in part, from its setting. The enclosed yard/driveway associated with the Barn, shared with Stocks Cottage and setback off Lees Court Road, forms the asset's immediate setting and it is from here that the asset is best appreciated. This contributes somewhat to the asset's special interest and

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<sup>1</sup> List Entry Number: 1069083

<sup>2</sup> List Entry Number: 1069084

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significance. Beyond this, the surrounding area is made up of modest residential development, with a verdant and open field behind (the appeal site). There is considerable intervisibility between the appeal site and the Barn. The appellant's heritage statement illustrates the appeal site's likely historic functional connection with the Barn, as part of an historic former farmstead. The submitted map from 1887 illustrates the Barn as being open onto the land which now, in part, forms the appeal site, with no boundary separating the two. A later map, from 1908, shows a boundary having been created around the land which now forms the appeal site and between it and the Barn. It is evident that the Barn and appeal site are, today, severed from one another, at least in terms of ownership and use. Nevertheless, a clear visual and historically functional connection remains. This surrounding area, which includes the appeal site, forms the asset's wider setting. This wider setting makes a positive contribution to the asset's special interest and significance.

#### The Manor House

24. The Manor House is a Grade II listed building<sup>3</sup>. It has origins in the 16<sup>th</sup> century, with later alterations and restoration. It is a timber-framed building with exposed plaster infill and red brick, with a plain tiled roof over.
25. The special interest and significance of the listed building is largely derived from its historic and architectural interests. Important contributors in these regards are its illustration as a vernacular domestic building and use of traditional building materials and methods.
26. Pertinent to this appeal, the building's special interest and significance are also derived, in part, from its setting. The well enclosed and landscaped grounds of The Manor House are set away from public views. It is from these closely related grounds that the asset is best appreciated. This forms the asset's immediate setting. This immediate setting contributes somewhat to the asset's special interest and significance. Beyond this, the surrounding area is made up, to the north, of low-key residential development and to the north east, with a verdant and open field (the appeal site). This surrounding area forms the asset's wider setting. Although the heritage statement sets out the appeal site's historic functional relationship with The Manor House, there is now limited intervisibility between the sites. This has altered how the asset is experienced and thus has moderated the contribution the wider setting, which includes the appeal site, makes to its special interest and significance.

#### Conservation Area

27. The special interest and significance of Sheldwich Conservation Area (CA) is largely derived from its historic townscape, all set within rural surroundings. There is variation in dwelling style and period but the material palette is typically limited to timber, brick and tile. Dwellings are typically positioned within large, spacious plots which have a direct relationship with nearby roads.
28. The open, verdant and undeveloped nature of the appeal site contributes to the transition from semi-rural to rural as you move along Lees Court Road. The appeal site's positive traits make a meaningful contribution to the character and appearance of the CA as a whole and thus to its significance as a designated heritage asset.

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<sup>3</sup> 1051678

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*Heritage assets – appeal proposal and effects*

Settings of The Stocks and The Manor House

29. The position and nature of the proposed development, together with the limited intervisibility between the appeal site and The Stocks and The Manor House, would mean that the visually and physically separate relationship between the appeal site and those assets would be maintained. The historic and architectural interests of the assets would remain unaffected. The retention of a reasonable separation distance and intervening landscaping features, in particular, would reinforce this. Ultimately, the immediate and most of the wider settings that contribute to the significance of those assets would remain undisturbed by the proposed scheme.
30. Taking these factors into account, the proposed development would not compromise the settings of The Stocks or The Manor House, rather it would have a neutral effect that would not determinably alter how the asset would be experienced and would not adversely affect the ability to appreciate the significance of the assets. Consequently, the settings of The Stocks and The Manor House, and the contribution those settings make to the significance of the assets, would be preserved.

Setting of the Barn

31. The Barn currently retains a visual and historically functional relationship with the appeal site. This would be markedly compromised as a result of the proposed development.
32. The proposed development would appear as a dominant feature in the site, introducing built form where there is currently none. The cumulative totality of the proposed development, when taking into consideration the likely associated paraphernalia of domestic gardens, sheds and parked cars, as well as inevitable items such as bin stores and boundary treatments, would harmfully erode the historic and rural setting of the Barn. The proposed areas of hardstanding for the access and parking spaces would considerably reduce the verdant character of the site. Moreover, the visual connection between the site and the Barn would be lost. Although the Barn has been modified in the past, losing its historic use, it retains an agrarian character which is seen in the context of surrounding agricultural land (the appeal site). The proposed development would compromise this. It would have a harmful urbanising effect and diminish the ability to appreciate the significance of the Barn, weakening the contribution that the wider setting makes to the significance of the heritage asset.
33. Overall, I conclude that whilst the proposed development would preserve the setting of Grade II listed buildings, The Stocks and The Manor House, it would fail to preserve the setting of Grade II listed building, the Barn. Consequently, the development would harm the significance of this designated heritage asset. In doing so, it would be contrary to the requirements of Section 66(1) of the Act.

Conservation Area

34. The proposed development would be at odds with the prevailing character of the area and would erode the open and spacious character of the site.



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Accordingly, it would have a harmful effect on, and thereby fail to preserve, the character and appearance of the CA as a whole.

35. I accept that the nearby primary school is atypical and uncharacteristic in terms of its layout, scale and appearance. However, its existence does not automatically mean that all future development must be allowed where this is found to be harmful. Overall, the proposed development would fail to preserve or enhance the character or appearance of the CA, in conflict with the requirements of Section 72(1) of the Act.

*Public benefits and balance*

36. Paragraph 205 of the Framework states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. Paragraph 206 goes on to advise that significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting and that this should have clear and convincing justification.
37. With reference to Paragraphs 207 and 208 of the Framework, in finding harm to the significance of designated heritage assets, the magnitude of that harm should be assessed. Given the extent of the development relative to the listed buildings and their settings, as a whole, and to the CA, I find the harm to be 'less than substantial' in this instance but, nevertheless, of considerable importance and weight. Under such circumstances, Paragraph 208 advises that this harm should be weighed against the public benefits of the development, which includes securing the asset's optimum viable use.
38. The scheme would result in a net increase of four dwellings at the site, which would be a public benefit given that the Council cannot currently demonstrate a five-year supply of deliverable housing sites. Moreover, the self-build status of the dwellings would provide a beneficial choice of homes in the borough. There would also be some economic benefits, including employment during the construction process and the increase in trade to local services and facilities following occupation, potentially assisting the vitality and viability of the settlement and its community. Nevertheless, these benefits would be relatively limited by reason of the limited extent of the proposed development.
39. Overall, the weight that I ascribe to the public benefits that would accrue from the proposed development is not sufficient to outweigh the considerable importance and weight that I attach to the harm I have found. Overall, the proposed development would fail to preserve the setting of Grade II listed building, the Barn, and would fail to preserve or enhance the character or appearance of the CA.
40. Consequently, it would be contrary to the requirements of sections 66(1) and 72(1) of the Act, and the relevant provisions of the Framework which seek to conserve and enhance the historic environment. The proposed development also conflicts with the relevant provisions of LP Policies CP8, DM14, DM32 and DM33 which, in summary, seek to achieve high quality design in development and to protect heritage assets.

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## Other Matters

### *Heritage*

41. The appeal site is located within the wider surroundings of two Grade II\* listed buildings, Church of St James<sup>4</sup> and Throwley House<sup>5</sup> in the north, and Grade II listed building Colbrahamsole Farmhouse and Garden Wall<sup>6</sup> to the south. Mindful of the statutory duty set out in section 66(1) of the Act, I have had special regard to the desirability of preserving their settings. The historic, albeit scattered and low-key, built backdrop and verdant rural surroundings of these buildings, of which the appeal site forms a part, positively contribute to their significance. Nevertheless, given the location and extent of the proposed development, together with the considerable separation distance and limited intervisibility between the sites, I consider that the proposed development would preserve the settings of these listed buildings and the contribution they make to their significance. I note the Council had no concerns in this regard either.

### *Housing Supply*

42. As noted above, the Council cannot currently demonstrate a five-year housing land supply of deliverable housing sites. This means that the policies which are most important for determining the proposed development are deemed to be out of date in accordance with paragraph 11.d of the Framework. This states that in such a situation where development plan policies are deemed out-of-date, planning permission should be granted unless one of two criteria apply. One of these, and which is pertinent to the appeal scheme before me, is if the application of policies of the Framework that protect areas or assets of particular importance, including designated heritage assets, provide a clear reason for refusing the development. As I have explained above, there would be harm to the setting of a Grade II listed building and to a conservation area that would not clearly be outweighed. Therefore, the proposed development would not benefit from the presumption in favour of sustainable development in this instance.

### *Self-build*

43. The appellant's evidence sets out that the proposed development would be a self-build scheme. In considering this matter, I have had regard to the Council's duties under the Self Build and Custom Housebuilding Act 2015. The Council is required, under this legislation, to keep a register of individuals or associations who are seeking to acquire serviced plots of land in the district on which to build their own home.
44. The appellant states that there is no evidence available to suggest that the Council is currently contributing toward meeting the borough's requirement. The Council has not responded on this matter. I therefore remain unclear as to the status of the demand for self-build in the borough and in respect of any planning permissions, allocated sites or numbers of plots overall.
45. Therefore, taking into account all of the evidence before me, the proposed development would likely contribute to the Council's requirement to make

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<sup>4</sup> List Entry Number: 1049130

<sup>5</sup> List Entry Number: 1344050

<sup>6</sup> List Entry Number: 1069086



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adequate provision for self-build dwellings, albeit this would be limited due to the nature of scale of the proposal. Accordingly, this is a consideration to which I afford limited weight and which does not outweigh or overcome the harm that I have identified under the main issues.

*Other considerations*

46. The appellant sets out that the scheme would meet other planning objectives, including in respect of living accommodation, private amenity space, parking or highways, trees, drainage, sustainability and ecology. However, there is no dispute between the appellant and Council on these matters and these have not led me to an alternative conclusion on the main issues.
47. I also accept that the proposed development would make efficient use of a small site, which is supported by the Framework. Nevertheless, this is not at any cost, and it does not lead me to an alternative conclusion on the main issues.
48. I note the appellant's difficulties in communicating with the Council. Such matters do not affect the outcome of this decision, which has been based on the evidence before me. These matters would be best dealt with under a Costs Application.
49. The site lies within the zone of influence of The Swale Special Protection Area, a European designated site. I note that a mitigation payment has been made by the appellant. Habitats Regulation 63(1) states that a competent authority, before deciding to give any consent or permission must make an appropriate assessment of the implications of the plan or project for that site. However, given my reasoning in respect of the main issues and that the appeal is dismissed, there is therefore no requirement upon me in that regard, and even were I to find that the proposal was acceptable in this respect, it would be neutral in my determination of the case.

**Conclusion**

50. For the reasons above, having regard to the development plan as a whole and all other relevant material considerations, I conclude that the appeal should be dismissed.

*A Price*

INSPECTOR