



Decision Notice and Statement of Reasons

Site visit made on 13 December 2024

By C Shearing BA(Hons) MA MRTPI

A person appointed by the Secretary of State

Decision date: 17 January 2025

Application Reference: S62A/2024/0060

Site address: 22 and 24 St Annes Road, London Colney, St Albans, Hertfordshire AL2 1LJ

- The application is made under section 62A of the Town and Country Planning Act 1990.
 - The site is located within the administrative area of St Albans City and District Council.
 - The application dated 2 September 2024 is made by Mr P Moxom of Turnstone Holdings Ltd and was validated on 22 November 2024.
 - The development proposed is described as 'demolition of 2no. bungalows and the construction of 5no. four bedroom houses, with associated external works'.
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Decision

1. Planning permission is refused for the development described above, for the following reasons:
 - 1) It has not been satisfactorily demonstrated that the proposed development is suitably located in terms of its risk of flooding, contrary to policy 84 of the St Albans Local Plan Review 1994;
 - 2) The proposed houses, by reason of their position and design, as well as the treatment of the front of the site, would cause harm to the character and appearance of the area, contrary to policies 69 and 70 of the St Albans Local Plan Review 1994;
 - 3) The proposed development, by reason of the width of the vehicular accesses, would cause harm to highway safety, contrary to policy 34 of the St Albans Local Plan Review 1994 and the Council's Place and Movement: Planning and Design Guidance 2024.

Statement of Reasons

Procedural matters

2. The application was made under Section 62A of the Town and Country Planning Act 1990, which allows for applications to be made directly to the Planning Inspectorate where a Council has been designated by the Secretary of State. St Albans City and District Council (the Council) have been designated for non major applications since 6 March 2024.
3. Consultation was undertaken on 27 November 2024 which allowed for responses by 3 January 2025. Responses were received from the parties listed in Appendix 1. Some interested parties also submitted responses. The Council submitted an officer report on 2 January 2025. This summarises these documents and sets out the Council's objections to the proposed development on a number of grounds. I have taken account of all written representations in reaching my decision.
4. I carried out an unaccompanied site visit on 13 December 2024 which enabled me to view the site and the surrounding area.
5. During the course of the application a new National Planning Policy Framework has been published (the Framework). The policies which are most relevant to the determination of the application have not been subject to substantive changes and I am satisfied that the parties have not been prejudiced by my taking it into account.

Main Issues

6. Having regard to the application, the consultation responses, comments from interested parties, the Council's report, together with what I saw on site, the main issues for this application are:
 - Location and principle of development;
 - Flood risk;
 - Effects of the proposal on the character and appearance of the area;
 - Highway safety;
 - Living conditions, and;
 - Biodiversity.

Reasons

Location and Principle of Development

7. The site is situated in London Colney, which is one of the settlements identified by Policy 2 of the District Local Plan Review 1994 (the LP) and where Policy 5 states there will be a presumption in favour of new housing where it is consistent with other policies of the Plan. The site has good accessibility to existing services and facilities, including public transport and overall it is a location where new housing can usually be supported.

Flood Risk

8. Notwithstanding the finding above, parts of the north-western corner of the site lie within Flood Risk Zones 2 and 3. Accordingly, a Flood Risk Assessment (FRA) has been provided with the application. This demonstrates that part of the development, including its access and

evacuation route, would be located on an area that would be at risk of flooding. As such a Sequential Test is required, which has the aim of steering new development to areas with the lowest risk of flooding. The Framework states that development should not be permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower risk of flooding.

9. The FRA finds it unlikely that other reasonably available sites are available in areas of lower flood risk. It states this is because the development can only be located in the proximity of the existing land use and land ownership. However, this justification is at odds with the advice in the Planning Practice Guidance (PPG) relating to 'reasonably available' sites, in particular where it states that lower-risk sites do not need to be owned by the applicant, that parts of larger sites could be considered, and that the area to apply the test will be defined by local circumstances relating to the catchment of the development.
10. Based on the evidence, it cannot be established that reasonably available sites appropriate for the proposed development do not exist in areas with a lower risk of flooding and the Sequential Test is not passed. Given the importance of this issue it would not be appropriate to secure further details by a planning condition. The PPG states that the Exception Test need only be applied if required and after the Sequential Test, and that both elements need to be satisfied to grant planning permission. As such I have not gone on to consider compliance with the Exemption Test. I have had regard to the consultation response of the Environment Agency, which raises no flood risk objections. Nonetheless, this does not provide assurances on the above matters and the PPG identifies the responsibility for deciding whether an application passes the Sequential Test lies with the relevant decision maker.
11. For the reasons given, the proposal would not be acceptable in terms of its risk of flooding. It would conflict with Policy 84 of the LP which states that in areas liable to flood, development, or the intensification of existing development, will not normally be permitted. It would also conflict with the objectives of the Framework related to flooding as discussed above.

Character and Appearance

12. This part of St Annes Road displays a variety of housing types. Opposite the application site is a more regular pattern of semi-detached houses of similar design, while the south eastern side of the road comprises a mix of housing typologies of varying design and different extents of set back from the edge of the road. There is, however, a degree of consistency in the building heights on this side of the road, with most houses being two storeys with some rooms in the roofslopes which are served by subordinate front dormers or rooflights. The building heights provide a degree of regularity and they contribute positively to the local character. The existing bungalows on the application site are an anomaly in the street, but due to their simple design and set back they sit comfortably within their context.

13. The proposal would provide houses of two full storeys plus a second floor partially contained in the roofslopes with windows in front and rear gables which extend from the main elevations. While the ridge height of the proposed houses better respects those on this side of the road, the eaves levels would nonetheless be higher and the top floor accommodation more visually prominent as a result of the gable features. In combination with the forward building line, the buildings would appear more visually prominent than others on this side of the road.
14. In addition, the proposal would introduce a repeated pattern of parking spaces across the vast majority of the front of the plot. As a consequence the front of the plot would be heavily dominated by hard landscaping and parked vehicles. While acknowledging some other properties have hard surfaced front driveways, in the case of the application site this would occupy a significant width with very limited opportunities for soft landscaping. Taken together with the scale of the new houses, this would contribute to the development appearing visually prominent and at odds with its surroundings.
15. Planning permission has previously been granted for the redevelopment of no.24 to provide a pair of semi-detached houses and the current proposal would allow for a consistent design approach across both sites. However, the design of that proposal is different to that of this application, for example including subordinate front dormers within the roof. Overall, the existence of that planning permission does not provide a reason to alter the above judgement.
16. The proposal would necessitate the removal of 15 trees from the site which the applicant acknowledges to be of varying quality. While these contribute to the verdant character of the site they are not of any strong amenity value due to their locations. Subject to a scheme of replacement planting, the proposed tree works would be acceptable. Suitable protection of trees on the adjoining land to the rear could also be secured by condition if the proposal were otherwise acceptable.
17. In conclusion on this main issue, the proposal would cause harm to the character and appearance of the area. It would conflict with policies 69 and 70 of the LP, as well as the Framework, which require, among other things, that developments should be sympathetic to local character and context.

Highway Safety

18. Each proposed new house would benefit from two off-street parking spaces, which would meet the requirements of LP policies 39 and 40 which set out the Council's parking standards. However, these would require three new long sections of dropped kerb and vehicular crossovers over the footway, which together would extend across the majority of the site's frontage. The Hertfordshire Place and Movement: Planning and Design Guidance 2024 states that unnecessarily long crossovers should be avoided to minimize inconvenience and danger to footway users. The length and frequency of the required accesses over the footpath in the proposal would amount to a significant hazard for pedestrians, causing detriment to highway safety.

While there are other crossovers of varying length along the road, based on the information before me I do not consider these provide a justification for the harm which would result.

19. In conclusion on this main issue, the proposal would cause harm to highway safety and would conflict with Policy 34 of the LP which relates to road safety and provision for pedestrians, the Framework insofar as it relates to highway safety, and the Place and Movement: Planning and Design Guidance as set out above.

Living Conditions

20. No.26 St Annes Road adjoins the application site to the north. It includes some openings in its side elevation which face towards the application site and, based on the evidence of the Council relating to its planning history, these serve non-habitable rooms or provide secondary sources of light to rooms served by other windows. The nearest proposed building to no.26 would have a similar depth including a single storey rear projection, limiting the effects on the rear facing windows of no.26. While there would be effects on the natural lighting and outlook from those existing side windows, the effects on the living conditions of those occupants of no.26 as a whole would be acceptable. The side facing windows of the proposed development would serve circulation space and would not cause a harmful loss of privacy.
21. No.20a St Annes Road lies to the south of the application site and has a number of windows, including a door, to its side elevation facing the application site, although these appear to be obscure glazed or serve non-habitable spaces. To its rear elevation no.20 has a set of patio doors closest to the boundary, as well as a projecting conservatory with windows looking towards the application site. While the proposal would undoubtedly change the outlook from the rear of no.20a and its conservatory, given the stepped set back of the first floor level, I do not consider the effects on its outlook to be unacceptable. In addition, the relevant tests for provision of daylight would be met and the development would be located to the north of no.20a and daylight would not therefore be harmfully reduced. While acknowledging there would be some effects, these would not amount to unacceptable harm to the living conditions of those occupants.
22. The proposal would provide an acceptable standard of accommodation for its future occupants, with the homes being of an appropriate size and well lit with outlook in multiple directions. They would also benefit from good quality private outdoor space and an appropriate level of privacy, and be capable of adapting to the changing needs of future residents.
23. Overall on this main issue, the proposal would provide acceptable living conditions to adjoining and future occupants. The proposal would comply with Policy 72 of the LP insofar as it requires the amenity of adjoining property not to be unacceptably harmed, and the objectives of the Framework relating to healthy living conditions.

Biodiversity

24. The site contains a number of trees, buildings including outbuildings, and adjoins the Broad Colney Lakes Nature Reserve to the south east, which includes an area of priority deciduous woodland and lakes. The application is accompanied by an Ecological Impact Assessment (EIA) which includes consideration of the effects of the proposal on protected species. It identifies that the site has negligible potential for bats, badgers and herpetofauna given the absence of suitable habitat. I have no strong reason to reach a different view given the findings of my site visit. Conditions could be used to secure the mitigation measures set out in the EIA. My attention has been drawn to a policy of the emerging Draft Local Plan which requires inclusion of Swift bricks. Even if I were to give weight to that policy that requirement could reasonably be achieved by a condition.
25. A Biodiversity Net Gain (BNG) Assessment and biodiversity metric have also been provided in response to the mandatory BNG requirement. This sets out that an off-site solution is required to achieve the requirement and details how this could be achieved. Based on the information before me, and having regard to the comments of the Council's Ecologist, I am satisfied that the general condition for BNG is capable of being discharged through the imposition of conditions or creation of a legal agreement to secure off site gains if the proposal were otherwise acceptable. For the reasons given the proposal would be acceptable in terms of its impacts on biodiversity.

Planning Balance

26. The Council accept that it cannot demonstrate a five year land supply for housing. As such, the provisions of paragraph 11d) of the Framework are relevant to the application. However, it has been found that the application of policies in the Framework which relate to areas at risk of flooding, which is one of the protected areas set out in footnote 7, provide a strong reason for refusing the development proposed. As such the proposal does not benefit from the presumption in favour of sustainable development set out in the Framework.
27. Nonetheless, the proposal would provide three net additional homes on the site which would contribute to the District's housing stock and the national objective to boost the supply of homes. This is particularly important given the acknowledged under supply of land for homes in the District. These homes would be in an existing built up location with good accessibility to services and facilities including public transport, and the Framework acknowledges that sites of this size can make an important contribution to the housing requirement and are often built-out relatively quickly. There would also be some economic benefit arising from the construction process and ongoing expenditure into the local economy by future occupants. Together these benefits attract moderate weight, given the scale of the proposal.
28. Where the proposal would be policy compliant in other respects these are neutral matters rather than weighing in favour of the development. Given the above conclusions relating to the visual impacts of the development,

the demolition of the existing buildings does also not add weight in favour of the proposal.

29. Overall, the proposal has been found to be in conflict with the development plan and there are not material considerations of sufficient weight which would provide a reason to determine the application other than in accordance with it.

Conclusion

30. For these reasons, and having regard to all other matters raised, the proposal does not accord with the development plan and therefore I conclude that planning permission should be refused.

C Shearing

Inspector and Appointed Person

Informatives:

- i.* In determining this application the Planning Inspectorate, on behalf of the Secretary of State, has worked with the applicant in a positive and proactive manner. In doing so the Planning Inspectorate gave clear advice of the expectation and requirements for the submission of documents and information, ensured consultation responses were published in good time.
- ii.* The decision of the appointed person (acting on behalf of the Secretary of State) on an application under section 62A of the Town and Country Planning Act 1990 ("the Act") is final, which means there is no right to appeal. An application to the High Court under s288(1) of the Town and Country Planning Act 1990 is the only way in which the decision made on an application under Section 62A can be challenged. An application must be made within 6 weeks of the date of the decision
- iii.* These notes are provided for guidance only. A person who thinks they may have grounds for challenging this decision is advised to seek legal advice before taking any action. If you require advice on the process for making any challenge you should contact the Administrative Court Office at the Royal Courts of Justice, Strand, London, WC2A 2LL (0207 947 6655) or follow this link: <https://www.gov.uk/courts-tribunals/planning-court>

Appendix 1 - Consultee responses

St Albans City and District Council

St Albans City and District Council- Contaminated Land

St Albans City and District Council- Recycling and Waste

Hertfordshire County Council- Highways

Hertfordshire County Council- Ecology

Hertfordshire County Council- Landscape

London Colney Parish Council

Environment Agency

Thames Water