



## Decision Notice and Statement of Reasons

Site visit made on 23 April 2025

**By Jennifer Wallace BA(Hons) MRTPI**

**A person appointed by the Secretary of State**

**Decision date: 12 June 2025**

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**Application Reference: S62A/2025/0087**

**Site address: Land between 84 and 108 Ragged Hall Lane, Chiswell Green, St Albans, Hertfordshire, AL2 3NN**

- 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 20 February 2025 is made by Mr Martin Holderness and was validated on 20 March 2025.
  - The development proposed is outline planning application (all matters reserved) for 7 serviced plots for self-build and custom housebuilding.
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### Decision

1. Planning permission is refused for the development described above, for the following reasons:
  - 1) In the absence of an up-to-date ecological assessment and suitable reptile surveys, it cannot be established that the proposal would have an acceptable effect on protected species, contrary to St Albans City and District Local Plan Review 1994 Policy 106.

### 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 has been designated for non major applications since 6 March 2024. Although that designation ceased on 6 June 2025, the Planning Inspectorate will continue to determine this application as it was received prior to this date.
3. Consultation was undertaken on 31 March which allowed for responses by 28 April 2025, with further consultation undertaken in response to

additional highways information. Responses were received from the parties listed in Appendix 1. A number of interested parties and local residents also submitted responses.

4. St Albans City and District Council submitted an officer report. This summarises the initial consultation responses from consultees and sets out the Council's views on the proposed development on a number of grounds. I have taken account of all written representations in reaching my decision.
5. I carried out an unaccompanied site visit on 23 April 2025. This enabled me to view the site, the surrounding area, the nearby roads and public rights of way.
6. A completed Unilateral Undertaking (UU) under section 106 (s106) of the Town and Country Planning Act 1990 was submitted with the application which seeks to secure the proposed dwellings as self-build. The Council has not highlighted any concerns with respect to this.

## **Main Issues**

7. Having regard to the application, the consultation responses and comments from interested parties, together with my observations at my site visit, the main issues for this application are:
  - *the effect of the proposal on protected species;*
  - *whether the proposal would be inappropriate development in the Green Belt having regard to the National Planning Policy Framework (the Framework) and any relevant policies in the development plan;*
  - *whether the proposal can be secured as self build and so be exempt from the need for biodiversity net gain;*
  - *the effect of the proposal on highway safety; and*
  - *the effect of the proposal on the character and appearance of the area*

## **Reasons**

### *Planning History*

8. Planning permission has been refused for residential development of the site twice, in 2011<sup>1</sup> and 2023<sup>2</sup>. The 2023 decision was subsequently dismissed on appeal<sup>3</sup>. A further application<sup>4</sup> in 2024 was the subject of an appeal<sup>5</sup> against its non-determination which was dismissed in 2025.

### *Protected Species*

9. The application has been accompanied by a Preliminary Ecological Appraisal (PEA). This was issued in August 2022 and sets out that the survey results are 'considered accurate for two years assuming no significant considerable

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<sup>1</sup> 5/2011/1685

<sup>2</sup> 5/2022/1517

<sup>3</sup> APP/B1930/W/23/3320280 dismissed 9 October 2023

<sup>4</sup> 5/2024/0144

<sup>5</sup> APP/B1930/W/24/3345004 dismissed 20 January 2025

changes to the site conditions'. It is now well over two years since that date. At my site visit, I observed that the site was now well vegetated, unlike the cleared site shown in the photographs in the appendix to the PEA and the reference in the comments from Hertfordshire LEADS to the site being 'essentially totally cleared'.

10. Furthermore, the PEA recommended that a reptile survey was undertaken on the site. No further surveys have been submitted. I am mindful of the advice in Circular 06/2005<sup>6</sup> (the Circular) that 'It is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before the planning permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision'.
11. The Circular is clear that surveys should only be secured by condition in exceptional circumstances. It is not unusual for housing developments to be the subject of outline planning permission, or for applications to be refused. No exceptional circumstances have been put forward. There is therefore nothing to justify the use of a condition in light of the clear advice in the Circular.
12. I therefore cannot conclude that the proposed development would not have an adverse effect on protected species contrary to St Albans City and District Local Plan Review 1994 (LP) Policy 106 which confirms planning applications which could adversely affect any site supporting species protected by the Wildlife and Countryside Act 1981 will be refused. It would also be contrary to the advice in the Framework at paragraph 187 that planning decisions should minimise impacts on biodiversity and at paragraph 193 that significant harm should be avoided, adequately mitigated or compensated for.

### *Green Belt*

13. Paragraph 155 of the Framework confirms that the development of homes in the Green Belt should not be regarded as inappropriate where it meets the relevant criteria. The glossary to the Framework defines grey belt land and confirms that this includes land which does not contribute strongly to any of purposes (a), (b) or (d). It is not necessary for land to be previously developed.
14. Since the January 2025 appeal decision was issued, Planning Practice Guidance (PPG) on the Green Belt has been updated to reflect the changes made to the Framework in December 2024. This includes guidance on how the contribution land makes to the relevant Green Belt purposes should be assessed<sup>7</sup>. I have had regard to this advice when considering whether the site contributes strongly to each of the relevant purposes.
15. Purpose (a) is to check the unrestricted sprawl of large built up areas. There is linear development along Ragged Hall Lane, then the application site, beyond which are a further two properties which front on Ragged Hall

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<sup>6</sup> Circular 06/2005: Biodiversity and Geological Conservation

<sup>7</sup> Green Belt Paragraph: 005 Reference ID: 64-005-20250225

Lane. There are also properties on the opposite side of the road which, although in a more dispersed pattern, effectively continue the built form beyond the application site. To the rear of the site, the land is largely vegetated. Taken together, these constitute physical features that restrict and contain the proposed development. Although layout is not before me, I have no reason to think that an acceptable scheme could not be brought forward at the reserved matters stage. The position of the site is such that it is subject to the urbanising influence of the adjacent development. Consequently, I consider the site makes a weak contribution to checking the unrestricted sprawl of large built up areas.

16. Purpose (b) is to prevent neighbouring towns merging into one another. The site does not form part of a gap between towns given the position of development to either side along Ragged Hall Lane and the distance between Chiswell Green and any settlement to the west. The site therefore makes a weak contribution to purpose (b).
17. Purpose (d) is to preserve the setting and special character of historic towns. St Albans is undoubtedly a historic town. However, the immediate surrounds of the site consist primarily of 20<sup>th</sup> century development. The site has no visual, physical or experiential connection to the historic aspects of either Chiswell Green or St Albans. The site therefore makes no contribution to purpose (d).
18. The site does not strongly contribute to any of the above purposes of the Green Belt. The application of policies relating to the areas or assets (other than Green Belt) in footnote 7 of the Framework would not provide a strong reason for refusing or restricting the proposed development. Consequently, I am satisfied the site meets the definition of grey belt land. This is a view that both the applicant and the Council have also expressed.
19. The remaining purposes of the Green Belt are (c) to assist in safeguarding the countryside from encroachment and (e) to assist in urban regeneration, by encouraging the recycling of derelict and other urban land. Given the position of the site between other development as outlined above, and the small scale of the proposed development, the proposal would not undermine the purposes of the remaining Green Belt across the area of the plan.
20. It is not in dispute that the Council cannot demonstrate a five year supply of deliverable housing land. Nor has the Council disagreed with the applicant's evidence in relation to the demand for self build properties. I am therefore satisfied there is a demonstrable unmet need for the type of development proposed.
21. Paragraph 155 also requires that the development would be in a sustainable location with particular reference to paragraphs 110 and 115 of the Framework. These paragraphs, while acknowledging that opportunities vary between urban and rural areas, are clear that there should be sustainable transport options.

22. A footpath commences outside 84 Ragged Hall Lane which is lit and runs to the closest bus stop some 600m away on Watford Road. This is within the 10 minute walk time, or 800m distance, considered most conducive to walking in Manual for Streets. While the distance is beyond the 400m considered to be necessary by the local highway authority, I have not been provided with any substantive evidence to show why a shorter distance is necessary in this case. The land is generally level. Suitable access to the existing footpath would be addressed at the reserved matters stage and there is no reason to think an appropriate solution could not be designed. I am therefore satisfied the site is in a sustainable location.
23. The proposal would therefore be not inappropriate development in the Green Belt as it would meet the exception set out in paragraph 155 of the Framework. It is therefore not necessary for me to consider the effect of the proposal on the openness of the Green Belt or to consider if there are any very special circumstances.
24. I have been provided with evidence related to the St Albans Green Belt review. However, as that was carried out prior to the 2024 revisions to the Framework and consequent revisions to the PPG, and to inform the then emerging Local Plan, it would not alter my assessment of this site based on current guidance. It is also not necessary for me to consider the other proposals brought to my attention, as these also pre-date the publication of the updated PPG on grey belt and findings in another location, even one in proximity to the application site, would not alter my assessment of this proposal.

#### *Self Build and Biodiversity Net Gain*

25. It is proposed that the development would comprise self build dwellings. As such, it would be exempt from the mandatory requirement to provide biodiversity net gain. The application has been accompanied by a planning obligation which seeks to secure this. Consequently, it was not necessary for there to be any supporting information regarding biodiversity net gain to validate the application.
26. The planning obligation would restrict transfer of the plots to three groups. This includes a Qualifying Self-Build and Custom Housebuilding Developer, which can be an individual or association of individuals. This is defined in the obligation, and is consistent with the criteria for eligibility for entry in the register<sup>8</sup> set out in Regulation 4(3)(a) and (e) of the Self-build and Custom Housebuilding Regulations 2016. However, it also restricts the individual(s) to British citizens. This goes beyond the eligibility criteria set out in Regulation 4(3)(b) in that it does not allow for nationals of the European Economic Area or Switzerland to form part of that association. Furthermore, while this restriction exists for entry onto the register, there is nothing to say that individuals who are nationals of other countries cannot apply to build a self-build or custom dwelling. There is no

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<sup>8</sup> That relevant authorities are required to keep under S1(1) of the Self-build and Custom Housebuilding Act 2015

justification in the information submitted with the application for this limitation.

27. Were I minded to allow the application, this is a matter which would need to be further addressed. However, I have no reason to think it could not be appropriately resolved and the proposed dwellings secured as self build. That being the case, the proposal would be exempt from the requirement to meet the mandatory biodiversity net gain condition as set out by Schedule 7A of the Town and Country Planning Act 1990 (inserted by the Environment Act 2021) and the Biodiversity Gain Requirements (Exemptions) Regulations 2024.

#### *Highway Safety*

28. Ragged Hall Lane is single width in front of the application site. However, immediately beyond, it becomes a single carriageway of an appropriate width for a residential area.
29. Following the consultation period, an amended indicative layout plan was submitted which sought to demonstrate that the concerns of the Local Highway Authority (LHA) could be addressed. Subsequent comments from the LHA have removed their concerns. Notwithstanding, all matters are reserved and so the final detail would fall to be considered at the reserved matters stage. However, I am satisfied that an appropriate design solution, which would provide safe and appropriate access for pedestrians and vehicles and allow the continued safe operation of the highway, could be achieved.
30. The number of trips generated by an additional seven dwellings would not have a severe impact on the operation of the highway network. The provision of car parking would also be addressed at the reserved matters stage.
31. I am therefore satisfied that the proposal would be acceptable in terms of the highways considerations in development control set out in LP Policy 34.

#### *Character and Appearance*

32. There would be an inevitable change in the character of the site from an open site to a residential development. As set out above, the position of the site between other residential development and the containment provided by the surrounding planting means that the effects of this would be limited and localised.
33. The development to either side of the application site is characterised by residential development situated on relatively long plots and facing onto the highway. Development on the southern side of the street opposite the site consists of larger dwellings set in more expansive plots, while further east along Ragged Hall Lane broadly reflects the pattern of more linear plots. There is a variety of designs and styles of dwelling, which range between single and two storey.

34. The application is made in outline with all matters reserved. Consequently, the appearance, layout and scale of the development would be considered at the reserved matters stage. Indicative plans have been submitted showing how the site could be developed. This shows a linear form of development. While the proposal may not come forward in this manner, I am nonetheless satisfied that an appropriate scheme could be designed which would have regard to the context in which it would be located and integrate into the built form.
35. The proposal would, insofar as falls to be assessed at the outline stage, have an acceptable effect on the character and appearance of the area and so would be in accordance with LP Policies 69 and 70.

## **Other Matters**

### *Public Right of Way*

36. St Michael Rural 010 Public Right of Way (PRoW) forms the boundary of the site to 84 Ragged Hall Lane. At my site visit, the PRoW was clearly defined and surfaced with bark chippings within the site. The layout of the site falls to be considered at the reserved matters stage, however there is no reason that the PRoW could not be easily incorporated into the layout. While it is likely there would be a change to the character of the PRoW where it is immediately adjacent to the development, this would only be for a very short distance and where the PRoW is influenced by the existing residential development. The PRoW would be protected and the proposal would therefore be in accordance with Paragraph 105 of the Framework.

### *Heritage Assets*

37. The application has been accompanied by a Heritage Statement. This identifies that the application site lies partially within an archaeological site subject to recording conditions due to the presence of crop marks, and that the Historic Environment Record records cropmarks in the vicinity of the site. The proposal therefore has the potential to affect both known and unknown non-designated heritage assets, the significance of which would be in their archaeological interest and the addition to the knowledge and understanding of historic occupation and farming practices in the area.
38. This is a matter which could be adequately addressed through a pre-commencement condition requiring archaeological investigation. This would allow for any archaeological remains to be assessed and appropriate provision made for their preservation and/or recording. Paragraph 216 of the Framework requires a balanced judgement, and the scale of any harm to the non-designated heritage assets would be commensurate with the benefits from the delivery of additional housing.
39. The Heritage Statement also identifies 75 Ragged Hall Lane<sup>9</sup> as a Grade II listed building. This is a former farmhouse whose significance is derived from its architectural and historic interest as evidence of historic patterns of occupation and development of residential properties. The setting of a

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<sup>9</sup> Referred to as Old Cuckmans, Ragged Hall Lane List Entry Number 1175529

farmhouse would be informed by its relationship to other agricultural buildings and the surrounding rural land uses. Given the intervening development between the site and the listed building, it does not form part of the setting of the listed building, and so the statutory duty imposed by Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 is not engaged.

### *Other Matters*

40. Although the application has been made in outline, it is a small site that could likely be delivered quickly. The layout of the proposal would be determined at the reserved matters stage. However, the site would be capable of accommodating seven additional dwellings and a scheme could be designed which would provide acceptable living conditions for future occupiers, with an acceptable effect on the living conditions of neighbouring occupiers. Matters relating to crime prevention and waste management would also be assessed at the reserved matters stage.
41. Outline planning permission was granted on appeal<sup>10</sup> for up to 53 dwellings to the rear of 28-74 Ragged Hall Lane. This site would be physically and visually separate from the application site due to the layout of the area and the intervening planting. The effects of this proposal would not merit my reaching a different conclusion on this application.
42. There is no evidence before me to suggest that the site would be necessary to be part of the Watling Chase Community Forest. Appropriate landscaping of the site would soften the boundary of the built up area and appropriately mitigate the visual effects of the proposed development, including on users of the surrounding recreation assets.
43. The site is not at risk of flooding. It has been confirmed there is sufficient capacity within the waste water network and sewage treatment works to accommodate the development. Suitable conditions could ensure that the effects of any contamination on the site could be addressed.

### **Planning Balance**

44. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The Framework is such a material consideration.
45. The Council accepts that it cannot demonstrate the appropriate supply of deliverable housing land. Nor have the requirements of the Housing Delivery Test been met. As none of the areas or assets identified in Footnote 7 apply to the proposal, paragraph 11d)ii of the Framework applies to the application. This states that planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits having regard to key policies.

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<sup>10</sup> APP/B1930/W/23/3331451 allowed 3 May 2024



46. The proposal would provide an additional seven dwellings. While the Council has not quantified the shortfall in housing supply, as there is a shortfall I attach moderate weight to the provision of those dwellings. This would also be the case if I were certain that the proposed dwellings were appropriately secured as self-build. There would be economic benefits associated with the scheme during the construction and occupation phases. However, these would be limited as the proposal is for a limited number of dwellings.
47. While the application is in outline, there is no reason in principle that acceptable living conditions for existing and future occupiers could not be secured, or that appropriate access and parking could not be provided. There would be a limited increase in traffic generation which would have an acceptable effect on the operation of the surrounding highway network. However, these are to be expected of any well designed development and consequently would not be benefits of the proposal. The provision of the dwellings as self-build has not been secured. However as this is a matter which could be resolved were the application otherwise acceptable, it is also a neutral consideration.
48. I cannot be certain that the proposal would not cause harm to protected species. I attach significant weight to this harm.
49. The adverse impacts of granting planning permission would therefore significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole. As a consequence, the proposal would not benefit from the presumption in favour of sustainable development.

### **Conditions**

50. The Council and a number of consultees have recommended conditions to be imposed should the application be permitted. Having reviewed these, in my view and considering the application as a whole, imposing these conditions would not overcome or otherwise outweigh the harms I have found in my reasoning above.

### **Conclusion**

51. 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.

*Jennifer Wallace*

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 and gave clear deadlines for submissions and responses. Additional drawings with respect to Highways issues were accepted, and further consultation carried out with St Albans City and District Council and Hertfordshire County Council.
- 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 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

Contaminated Land

Crime Prevention Officer

Hertfordshire County Council – Countryside Rights of Way Service

Hertfordshire County Council Highway Authority

Hertfordshire County Council – Hertfordshire LEADS

Hertfordshire County Council – Landscape

Place Services - Archaeology

Recycling and Waste Officer

St Stephen Parish Council (2 responses)

Thames Water