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# Appeal Decision

Site visit made on 30 July 2018

**by Robert Fallon B.Sc. (Hons) PGDipTP MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 30<sup>th</sup> November 2018**

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**Appeal Ref: APP/B1930/W/17/3192145**

**Land rear of The Blue Anchor Public House, 145 Fishpool Street, St Albans, AL3 4RY**

- 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 Kevin Keenan (Osprey Developments) against the decision of St Albans City & District Council.
  - The application Ref 5/17/2276, dated 9 August 2017, was refused by notice dated 5 December 2017.
  - The development proposed is described on the application form as "Construction of dwelling, removal of existing car park and landscape enhancement of site."
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## Decision

1. The appeal is allowed and planning permission is granted for the construction of dwelling, removal of existing car park and landscape enhancement of site on land rear of The Blue Anchor Public House, 145 Fishpool Street, St Albans, AL3 4RY in accordance with the terms of the application, Ref 5/17/2276, dated 9 August 2017, subject to the conditions set out in the attached schedule.

## Procedural matter

2. The revised Framework<sup>1</sup> was published on 24 July 2018. Both main parties have been given the opportunity to comment on this and I have taken their responses into account.

## Main issues

3. The Council has raised no concerns regarding: (a) the impact of the development on the living conditions of neighbouring occupiers; (b) the local highway network; (c) its ecological impact; and (d) flood-risk. Accordingly, within the context of the Council's reasons for refusal and the evidence in this case, the main issues are:
  - whether the proposal would be inappropriate development in the Green Belt;
  - the effect of the development on the openness of the Green Belt;
  - the effect of the development on the character and appearance of the area, with particular regard to the St Albans Conservation Area, the setting of the Grade II listed former public house and the adjacent group of local listed buildings at St Michael's Court;

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<sup>1</sup> National Planning Policy Framework, Ministry for Housing, Communities and Local Government, July 2018

- if the development is inappropriate, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify the development.

## Reasons

4. The appeal site is located on the outskirts of St Albans City Centre within the St Albans Conservation Area ('the conservation area'), an Archaeological Recording Site and Flood Zone 3b of the Environment Agency's indicative flood map. On the basis of the evidence before me, I am satisfied that much of the appeal site falls within the town settlement boundary, although a significant proportion of it to the rear where the proposed house is to be constructed falls outside of this and within the Green Belt.
5. The site currently forms part of a larger car-park surfaced in tarmac, which previously served the Blue Anchor Public House to the north-east, a handsome Grade II listed building recently converted into a residential dwelling ('the Blue Anchor'). The Blue Anchor and remaining section of car-park is under the control of the appellant. To the north-west lies an attractive group of historic cottages called St Michael's Court. To the south of the site lies a public park falling within the Green Belt, which contains, amongst other things, the historic remains of the Roman settlement Verulamium, which is now designated a scheduled ancient monument.
6. Fishpool Street is an extremely attractive road characterised by tightly knit historic terraced houses of varying architectural styles forming a strong built frontage with limited gaps. The street is narrow and there is a high degree of enclosure.

### *Whether the proposal would be inappropriate development in the Green Belt*

7. Policy 1 of the Local Plan<sup>2</sup> states that within the Green Belt permission will not be given for development other than in very special circumstances or subject to a small number of specified exceptions. Paragraphs 145 and 146 of the Framework state that the construction of new buildings and other forms of development in the Green Belt are inappropriate unless they fall within a number of exceptions.
8. The proposed development does not fall within any of the specified exceptions identified in Policy 1 of the Local Plan. In terms of the exceptions referred to in the Framework, the site is surrounded on three sides by residential housing and their gardens. As a consequence of this, and because it falls within the curtilage of land occupied by a permanent structure (the Blue Anchor and associated outbuildings), I am satisfied it constitutes an infill plot on previously developed land.
9. Although the development would only be of a modest size and set against the backdrop of other built-form, it would nonetheless have a greater impact upon the openness of the area than retaining the site in its present form, even if it was used for alternative purposes such as the parking of cars. The development would not therefore fall within the exception outlined by paragraph 145 (g) (first limb) of the Framework.

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<sup>2</sup> St Albans District Plan, City and District of St Albans District Local Plan Review, Adopted 30 November 1994, Written Statement.

10. However, despite my conclusion that the development would cause harm to the openness of the Green Belt, it is my view that this would be limited because part of the proposed dwelling would fall within the settlement boundary of St Albans, which falls outside this designated area. Furthermore, it would lie adjacent to, and be set against the backdrop of other built-development, which would further reduce its overall visual impact on the openness of the Green Belt.
11. The development would also fail to meet other exceptions identified in Policy 1 of the Local Plan and Paragraphs 145 and 146 of the Framework. In particular, the site does not constitute an infill plot within a village (St Albans being a town), and the scheme would not contribute to meeting an identified affordable housing need.
12. In view of the above, I conclude that the proposal constitutes inappropriate development in the Green Belt. I have assessed the scheme's impact upon the openness of the Green Belt in accordance with the exception at Paragraph 145, part (g) and concluded that it would cause limited harm to this. As a consequence, there is no need for me to consider this element again separately.

*The effect of the development on the character and appearance of the area, with particular regard to the St Albans Conservation Area, the setting of the Grade II listed former public house and the adjacent group of local listed buildings at St Michael's Court*

13. The proposed dwelling has been designed to reflect the scale, proportions and design of other properties in Fishpool Street and St Michael's Court in that it has a shallow plan form, steep pitched roof, front elevation jetty and utilises a pleasing mix of washed render, brickwork and timber cladding . There is also a high wall to window ratio which reflects the style of traditional rural-domestic architecture. The Council has raised no objections to the design of the dwelling in isolation and in my view, it is a high quality which will make a positive contribution to the rich architectural mix of properties in the area (subject to one caveat below).
14. There is nonetheless one element of the design that I do not consider to be of an appropriately high standard and which significantly detracts from the otherwise high quality design of the property, namely the standard horizontal brickwork lintels above the windows and doors at ground floor level. However, I am satisfied that the design of these can be changed to provide a more thoughtful articulation of historic architectural styles that are prevalent in Fishpool Street, such as the cambered arches with gauged/segmental brick lintels on other rural-domestic architectural style dwellings, such as those at Nos 128 to 132 and 150. I have therefore imposed a condition requiring details of an amended style of brickwork lintels to the windows and doors, which should be applied to all elevations.
15. The development would substantially erode a large gap between the Blue Anchor and St Michael's Court which is clearly visible from the public highway. However, whilst I recognise that this enables views to trees in the parkland beyond, I nonetheless consider this opening to be significantly out-of-character with the prevailing street form, which is primarily characterised by a strong continuous frontage. This is reinforced by the fact that up until the 1950s, this gap did not exist, having been filled by a row of traditional cottages.

16. I acknowledge that occasional gaps providing brief glimpses of greenery in the park beyond are to be welcomed and make a positive contribution to the character of the area, but the existing gap where the development is proposed is uncharacteristically large and in my view, does not provide a notable public view worthy of preservation or one that makes a positive contribution to the character of the area. Furthermore, to my mind, the introduction of the proposed dwelling would help create a more attractive 'end stop' whilst still enabling glimpses of the trees beyond above its rooftop.
17. The development would not result in the loss of any significant vegetation or trees of note and would not encroach into views of St Michael's Court or the Blue Anchor from the public highway. I recognise that the sense of space that currently characterises the site when viewed from the public highway would be mostly lost, but to my mind, this is a positive benefit of the scheme as this openness has primarily arisen to cater for a car-park, which does not make a positive contribution to the character and appearance of the area. I recognise that much of this land might have been planned to be domestic garden in connection with the Blue Anchor, which would be an improvement upon its current appearance, but this would still not address the fundamental negative characteristic associated with the site in that it forms an uncharacteristically large gap. Furthermore, I also have concerns that a residential garden use of the overall site could give rise to unsympathetic boundary treatments adjacent to the highway and household paraphernalia in the rear garden being visible from the public realm.
18. The proposed dwelling would be of a modest size with a height and form that complements the scale of the adjacent cottages at St Michael's Court. It has not been designed with a high wall plate or with rooms in the roof and front dormers, which would ensure that it does not dominate St Michael's Court. Furthermore, I am satisfied that these characteristics would also ensure that it appears subservient to the more visually dominant Blue Anchor, which has a much more imposing architectural style and appearance.
19. In terms of setting, it is my view that the most important views of the Blue Anchor and St Michael's Court are experienced from the public highway at the front of the site and that the proposed dwelling would not dominate these. I recognise that other views of the Blue Anchor and St Michael's Court are available from within the site and the rear gardens of neighbouring properties, but to my mind, the development would merely reflect the irregular form of historic development that is commonplace in the oldest parts of historic settlements such as St Albans. This is reinforced by St Michael's Court, which in itself represents a change from the more regular pattern of dwellings directly fronting onto the road which is so prevalent further to the south-east on Fishpool Street.
20. In light of the above, I consider the development to be of high quality design that respects its historic architectural context, and that it would make a positive contribution to the conservation area, and not harm the setting of the adjacent listed building and local listed buildings. However, this is on the basis that a range of conditions are imposed to ensure a high standard of architectural detailing and that the quality is not diminished between permission and completion.

21. I therefore conclude that the development would preserve the setting of the Blue Anchor listed building, and significantly enhance the character and appearance of the conservation area in accordance with S66(1) and S72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990. I also find that the scheme would preserve the setting of the adjacent group of local listed buildings at St Michael's Court and the scheduled ancient monument to the south.
22. The scheme would therefore accord with Policies 69, 85 and 86 of the Local Plan which collectively seek, amongst other things, to ensure that new development is of a high standard of design that preserves the appearance of conservation areas and the setting of listed buildings.
23. Despite the Council having referred to Policy 87 of the Local Plan in its second reason for refusal, this relates to the demolition of local listed buildings or proposed alterations and extensions to them. I am as a consequence satisfied that the scheme is not in conflict with this policy.

*Other matters*

24. Although representations were made by interested parties in respect of a number of other matters, I did not consider these to be of such significance to alter my conclusions in respect of the main issues. The most significant of these other matters, if not already addressed above, are dealt with below and in the section relating to conditions.
25. In view of the front and rear elevations of the dwelling not being directly orientated towards the front and rear gardens of properties in St Michael's Court, I am satisfied that it would not harm the privacy of neighbouring occupiers.
26. I recognise that a side elevation bedroom window to No 1 St Michael's Court ('No 1') would be affected by the proposal in terms of loss of light and outlook, but do not consider this sufficient to warrant refusal as this room has a further window unaffected by the development. Furthermore, given; (a) the dwelling's position to the side of No 1; and (b) the intervening distance between it and the shared boundary to St Michael's Court, I am satisfied that it would not harm the living conditions of other neighbouring occupiers in St Michael's Court by reason of loss of light or visual intrusion.
27. There is no evidence that the scheme would cause structural damage to neighbouring properties, and in any event, this would be a private civil matter. I also do not consider it in the public interest to protect the private views of individual properties.
28. The Council has referred to a number of other appeal cases that they feel help to justify refusal of the development. However, I do not have the full background and details to these cases to enable any meaningful comparison with the current proposal which must be considered on its own merits.

*Other considerations*

29. Paragraph 143 of the Framework states that inappropriate development is by definition harmful to the Green Belt, and should not be approved except in very special circumstances. Paragraph 144 states that very special circumstances will not exist unless the potential harm to the Green Belt, by reason of

- inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.
30. I have concluded that the proposal would constitute inappropriate development and therefore be, by definition, harmful to the Green Belt. I have also concluded that the proposal would cause limited harm to the openness of the Green Belt. In accordance with Paragraph 144 of the Framework, I have given substantial weight to this harm in my assessment.
  31. The conservation area and Blue Anchor constitute designated heritage assets, and St Michael's Court, a group of non-designated heritage assets. In accordance with Paragraph 192 of the Framework, I have taken account of the desirability of sustaining and enhancing their significance.
  32. I have concluded that the development would not cause any harm to the setting of the Blue Anchor listed building and St Michael's Court group of local listed buildings and would therefore sustain their significance. I have also found that the scheme would significantly enhance the conservation area and be of a high quality design. I have as a consequence given this environmental improvement substantial weight in my assessment.
  33. I have also attached modest weight to the Council's lack of an up-to-date 5 year housing land supply and the small, yet nonetheless important contribution the proposal would make to reducing this shortfall.
  34. Overall, when considered collectively, I find that the other considerations in this case, namely; (a) the significant environmental improvement to the historic character and appearance of the conservation area; and (b) the contribution to the shortfall in housing land supply, clearly outweigh the scheme's limited harm to the character, openness and permanence of the Green Belt. Looking at the case as a whole, I therefore consider there to be very special circumstances which justify the development. The scheme would as a consequence accord with Policy 1 of the Local Plan, which states that within the Green Belt permission will be given in very special circumstances.
  35. However, Section 38(6) of the Planning and Compulsory Purchase Act 2004 states that the determination of applications should be made in accordance with the development plan unless material considerations indicate otherwise. Given that Policy 1 of the Local Plan is not wholly consistent with the Framework, I have given it limited weight in my assessment. I have therefore proceeded to consider the scheme against the Framework, which I attach substantial weight to, and concluded, for the same reasons as stated above, that there are very special circumstances which justify the development and that the proposal therefore accords with Paragraphs 143 and 144.
  36. I also find that the scheme would accord with Paragraphs 124, 127, 192 and 193 of the Framework which collectively seek, amongst other things; (a) high quality design; (b) visually attractive development that is sympathetic to local character and respects the established pattern of buildings and spaces; (c) the creation of a strong sense of place; (d) the desirability of sustaining and enhancing the significance of heritage assets; and (e) the desirability of new development making a positive contribution to local character and distinctiveness.



### *Conditions*

37. None of the conditions I have imposed require approval before commencement of the development. The Environment Agency has not raised any concerns in respect of flood risk, subject to the submitted flood risk assessment being implemented in accordance with the approved details. Conditions have accordingly been imposed to ensure the scheme is carried out in accordance with the submitted plans and flood risk assessment.
38. To ensure that the development retains a faithful adherence to its traditional design and does not result in an unconvincing pastiche that would be harmful to the character and appearance of the conservation area and setting of the listed building and local listed buildings, a range of conditions have been imposed relating to external materials and architectural detailing. These include the requirement for a sample panel to ensure that a high quality brick and contextually appropriate Flemish brick bond is used to all elevations (and not a standard stretcher course). These conditions will also enable the essential provision of; (a) a plain clay tile for the roof; (b) timber windows and doors; (c) a locally distinctive and traditional brick lintel to the ground floor windows and doors (which more appropriately reflect the immediate local historic context than a standard horizontal row of bricks); (d) black metal guttering; (e) conservation roof lights; and (f) timber to all external facing bargeboards, fascias, rafter feet, soffits and brackets (to avoid the use of historically inappropriate plastic or composite finishes).
39. A condition is also needed requiring details of hard and soft landscaping to ensure that this is appropriate to the site's conservation area and Green Belt location. This condition includes a requirement for an appropriately sized timber shed commensurate with the scale of the dwelling for the storage of garden implements, bikes, bins and other household paraphernalia. Whilst I recognise that this structure also constitutes inappropriate development in the Green Belt and would impact upon the openness of the site, I am satisfied that the extent of openness lost would be minimal and that very special circumstances exist for the same reasons as identified above in the section relating to 'other considerations'.
40. The landscaping condition also requires details of boundary treatment and surface water drainage (to prevent any discharge onto the highway). The submission of these details will also enable the Council to ensure there is appropriate visibility at the site entrance. I do not consider it necessary for a separate condition to require visibility splays to be maintained at all times thereafter as permitted development rights have been removed for all boundary treatments forward of the front elevation of the dwelling.
41. Conditions have been imposed requiring details of a written scheme of investigation to establish whether there are any archaeological remains and if necessary, to leave any that are found in situ and protect them during construction. I am satisfied that it is not necessary for this to be a pre-commencement condition as the removal of the top 10cm of tarmac surfacing will not damage or disturb any deposits likely to be present as this ground has already been disturbed by the original car-park construction.
42. Given the small-scale nature of the development, I do not consider it necessary to impose conditions relating to construction works or storage of materials as any disturbance can be suitably controlled under other legislation.

43. To protect the openness of the Green Belt, the high quality design of the scheme and the site's sensitive position in a conservation area and within the setting of a listed building and group of local listed buildings, I have imposed a condition removing permitted development rights to construct any extensions, alterations and outbuildings.

### **Conclusion**

44. I have found that very special circumstances exist to justify development in the Green Belt, and that the scheme would significantly enhance the character and appearance of the conservation area and preserve the setting of the adjacent listed building and local listed buildings. In view of this, and having had regard to all other matters raised, I conclude that the appeal should be allowed.

*Robert Fallon*

INSPECTOR

### **Schedule of conditions**

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 201 A, 203 C, Site Plan illustration, 204, 205, Sequential and Exceptions Test, and Planning Heritage and Design and Access Statement.
- 3) No development works, aside from those relating to the removal of the existing tarmac surface (to a depth of no more than 10 cm), shall take place until samples of the following external facing materials and finishes have been submitted to and approved in writing by the local planning authority. These details shall include:
  - a) the provision of a sample panel on-site for inspection of the external brick walls to be used in the construction of the dwelling. The sample panel shall be at least 1 metre x 1 metre and show the proposed material, bond and pointing technique to be used in the development. For the avoidance of doubt, a Flemish bond shall be used on the sample panel and all external brickwork elevations to the dwelling;
  - b) the provision of a sample of the washed render showing the texture and colour to be used;
  - c) the provision of a sample of the timber cladding material, profile and colour to be used;
  - d) the provision of roofing materials and roof ridge tiles. For the avoidance of doubt, these shall be a plain clay single tile design and material.

The relevant works shall thereafter be carried out in accordance with the approved details and sample panel (which shall not be removed from the site until completion of the development).



- 4) Notwithstanding condition 2, no window or door lintels shall be installed or constructed until detailed drawings of the lintels to the ground floor windows and doors have been submitted to and approved in writing by the local planning authority. The relevant works shall thereafter be carried out in accordance with the approved details.
- 5) For the avoidance of doubt, and unless otherwise agreed in writing by the local planning authority, all:
  - a) windows shall be painted timber side hung casements with a minimum 80mm depth of reveal and have 'v' shaped solid external glazing bars, and any non-opening windows shall be fitted with dummy casements to match the sight-lines of the opening casements;
  - b) rooflights shall be of a conservation style and fitted flush with the plane of the roof;
  - c) doors shall be painted timber;
  - d) fascias, bargeboards and eaves rafter feet or soffits shall be stained or painted timber;
  - e) gutters and downpipes shall be of the round type, finished in black and constructed of metal;
  - f) brackets, exposed framework and bargeboards to the porch shall be painted or stained timber;
  - g) brackets to the underside of the front elevation jetty and window cills shall be painted timber;
- 6) No hard or soft landscaping works shall take place until the following details have been submitted to and approved in writing by the local planning authority. These details shall include:
  - a) all soft landscaping works to include: planting plans; written specifications (including cultivation and other operations associated with plant and grass establishment); schedules of new trees, hedgerows and plants noting species, plant supply sizes and proposed numbers/densities;
  - b) boundary treatments and gates, to include design, materials, colours and finishes. Where brick walls are proposed to any boundaries or the edge of paths or patio areas, these shall be constructed using a Garden Wall bond or Flemish bond;
  - c) hard surfacing materials for all parking, vehicle, pedestrian circulation areas and hardstandings (to include the means of access, vehicle turning area, patio areas, pathways and external seating areas);
  - d) a scheme to prevent the discharge of surface water onto the highway;

- e) a layout plan, elevation design and external dimensions for a detached timber shed with dual pitched roof in the rear garden for the storage of garden implements, bikes, bins and other household paraphernalia (which should be no less than 12 feet by 8 feet or equivalent square feet in floorplan size, not including any external veranda or porch, and no greater than 16 feet by 8 feet or equivalent square feet in floorplan size, not including any external veranda or porch);
- f) where proposed, any external lighting (aside from that to the front porch);
- g) an implementation programme for all soft landscaping works.

The dwelling hereby permitted shall not be occupied until the hard surfacing works, boundary treatment works, surface water discharge works and shed construction have been carried out in accordance with the approved details. The soft landscaping works shall be carried out in accordance with the implementation programme.

For the avoidance of doubt, all parking and vehicle circulation areas shall be retained for these purposes at all times.

- 7) The dwelling hereby permitted shall not be occupied until the first floor north-east facing front elevation bathroom window has been fitted with obscured glazing to a standard comparable with Level 4 of the Pilkington Glass range, and once installed the obscured glazing shall be retained thereafter.
- 8) No development works, aside from those relating to the removal of the existing tarmac surface (to a depth of no more than 10 cm), shall take place within the appeal site, as defined by a red-line on Drawing Nos. 204 and 205, until a Written Scheme of Investigation (WSI) has been submitted to and approved in writing by the local planning authority. The scheme shall include an assessment of significance and research questions and:
  - a) the programme and methodology of site investigation and recording;
  - b) the programme for post investigation assessment;
  - c) the provision to be made for analysis of the site investigation and recording;
  - d) the provision to be made for publication and dissemination of the analysis and records of the site investigation;
  - e) the provision to be made for archive deposition of the analysis and records of the site investigation;
  - f) the nomination of a competent person or persons/organization to undertake the works set out within the Written Scheme of Investigation.

All works shall be carried out and completed in accordance with the approved WSI scheme prior to the occupation of the dwelling, unless otherwise agreed in writing by the Local Planning Authority.

- 9) No development works, aside from those relating to the removal of the existing tarmac surface (to a depth of no more than 10 cm), shall take place until details of foundation design, drainage and services and a method statement (relating to carrying out these works to show how any surviving archaeological remains which are to remain in situ are to be preserved) for the dwelling and timber shed have been submitted to and approved in writing by the local planning authority;- unless the local planning authority otherwise agree in writing that there are no surviving archaeological remains that should remain in situ and that the details are not therefore required. The development shall thereafter be carried out in accordance with the approved details and method statement.
- 10) The development hereby permitted shall be carried out in accordance with the approved flood risk assessment (FRA) "Flood Risk Assessment for a proposed new dwelling at the rear of the Blue Anchor Public House, 145 Fishpool Street, St Albans, Hertfordshire, AL3 4RY to residential use" prepared by SDP Consulting Engineers Ltd (Job Number E14.112, dated April 2017, fifth issue), and the compensatory flood storage measures detailed within the FRA. The mitigation measures shall be fully implemented prior to the first occupation of the dwelling and shall be maintained thereafter or for such other period as may be agreed in writing by the local planning authority.
- 11) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification):
- a) no external alterations, extensions, porches, roof extensions, roof enlargements (to include dormer windows), roof windows, dormer windows or roof lights (aside from those shown on the approved plans) shall be carried out to any part of the dwelling hereby approved without the specific grant of planning permission from the local planning authority;
  - b) no external flues shall be installed to any part of the north-east facing front elevation roof plane without the specific grant of planning permission from the local planning authority;
  - c) no fences, gates or walls forward of the north-east facing front elevation of the dwelling hereby approved (aside from those shown on the approved plans or otherwise approved by the local planning authority in connection with other conditions) shall be erected or constructed without the specific grant of planning permission from the local planning authority;
  - d) no garages, buildings, or other structures shall be erected or constructed within any part of the curtilage of the dwelling hereby approved (aside from those otherwise approved by the local planning authority in connection with other conditions) without the specific grant of planning permission from the local planning authority.

**End of Schedule**