



Appeal Decision

Hearing (Virtual) held on 2 July 2025

Site visit made on 3 July 2025

by H Miles BA (hons), MA, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27 AUGUST 2025

Appeal Ref: APP/B1930/W/25/3360173

**Marlborough House, 18 Upper Marlborough Road, St Albans, Hertfordshire
AL1 3UT**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Telereal Property Development 1 Limited (TPD1 Ltd) against the decision of St Albans City Council.
 - The application Ref is 5/23/2398.
 - The development proposed is demolition of the existing building and redevelopment to provide two five storey residential buildings (Use Class C3) together with associated car parking, landscaping and other associated works.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. A Highways Contribution Note, HCC Highways Contribution Note, and a photograph of Marlborough House seen from Liverpool Road in winter were submitted during the appeal process. They do not change the scheme under consideration but provide information in response to the submissions. The main parties had the opportunity to consider the highways submissions ahead of the hearing and the relevant matters were discussed at the event. For the reasons above, and in the circumstances of this case, the parties would not be prejudiced if I were to consider these documents, and I have taken them into account in my decision.
3. A planning obligation has been submitted which provides mechanisms which seek to secure contributions to highways, County Council and District Council infrastructure, the NHS and East of England Ambulance Service (EEAST) and affordable housing, amongst other things. I will return to these matters later in this decision.

Main Issues

4. Having regard to the discussions at the hearing, in addition to the main issues set out prior to the event, it is also necessary to consider the effect on living conditions as a main issue. Therefore, the main issues are:
 - The effect of the proposed development on the character and appearance of the area, including the St Albans Conservation Area and the Locally Listed buildings at 3-43 Liverpool Road and 4-14 Upper Marlborough Road.

- Whether the proposal makes adequate provision for any additional needs for infrastructure arising from the development with particular regard to highways.
- The effect on the living conditions of neighbouring occupiers with particular regard to overlooking or overbearing effect to the properties at Liverpool Road.

Reasons

Character and Appearance

5. St Albans Conservation Area (CA) covers a large area in the city centre. Its significance as a whole derives from its historic character and appearance associated with the medieval core of the city and Roman Verulamium. As well as nineteenth century development and areas of townscape and landscape value including significant views.
6. The Conservation Area Character Statement for St Albans (CS) describes the site as being within area 4B: Hatfield Road and the Office Core. This part of the CA forms part of the commercial area of St Albans. Its significance derives from its medieval origins with subsequent development of Victorian housing, some of which remains, although mainly in commercial use. As well as large commercial buildings, including good examples of mid 20th century civic buildings such as the Civic Centre. These two types of buildings evidently differ in their character and appearance, including their relationship with the street.
7. Marlborough House is one of the large commercial buildings. It is an office block, set well back from the road. It is mainly surrounded by hardstanding, but with a landscaped strip to the front which includes a category B Locust tree. The building has limited architectural merit and the extent of the set back from the road edge is uncharacteristic. The existing building is therefore not a good example of a large commercial building in this area, and it detracts from the significance of the CA in these respects. The CS also identifies other negative buildings including the Telephone Exchange and the Crown Court due to their height and appearance.
8. Examples of the Victorian housing are at 4-14 Upper Marlborough Road. As well as forming part of the CA these buildings are locally listed. They are now in commercial use and have been extended and altered to the rear, but to the front, their scale, appearance, materials and detailing are indicative of their traditional residential Victorian character and form their historic significance. Whilst the extent of the set back to Marlborough House is uncharacteristic, it means that the existing building does not detract from the appreciation of these traditional frontages. These good examples of Victorian buildings therefore make a particularly important contribution to the significant features of the CA. There are also street trees in the CA including to Upper Marlborough Road and along with landscaping to the boundaries of other plots, this contributes to a leafy character.
9. Overall, the vicinity of the appeal site is characterised by the attractive Victorian buildings at 4-14 Upper Marlborough Road which, although not statutorily protected in their own right, contribute positively to the streetscene and are protected by virtue of them being within the CA. As well as the modern buildings on this side of the road which, due to their scale and set back, do not compete with the prominence of these important buildings nor do they detract from the positive contribution 4-14 make to the character and appearance of the townscape and the nineteenth century development in this area.

10. To the rear of the appeal site is the terraced housing at 3-43 Liverpool Road which is at a notably lower land level than Upper Marlborough Road. This terrace is within area 7C: Victoria Street of the CA, as set out in the CS. Between CA areas 7B and 7C there is a transition between larger scale commercial development and more modest scale buildings in this part of Victoria Street and the residential side streets. Area 7C derives its significance from its Victorian character including the small scale houses along Liverpool Street. This is a well maintained terrace of Victorian houses which appear mainly unaltered to their front elevations. They are locally listed, and their significance is primarily associated with their traditional appearance, scale and uniformity and this has a modest degree of heritage significance. Nevertheless, in addition to their local listing they are good examples of Victorian buildings and so make a marked contribution to the significant features of the CA. Marlborough House is not readily visible in public views of these buildings from Liverpool Road, although they are likely to be seen together in private views from locations including the houses opposite.
11. The appeal scheme would introduce two, five storey residential buildings which would occupy the majority of the width of the plot. The development would be no taller than the existing lift shaft, the height steps down towards the rear and the upper floor to both blocks is also within a sloped roof. Nevertheless, the proposed buildings would be taller than the majority of the other buildings in the area. Whilst the Crown Court and Telephone Exchange buildings would be higher, given their identified negative contribution to the CA in part due to their scale, the comparison to these buildings would not be a positive aspect of the development proposed. Furthermore, even considering the set backs to the southern part of the buildings, the appeal scheme is much wider and bulkier. Whilst it includes features such as recessed balconies which provide articulation, these do not fundamentally alter the scale or bulk of the proposed buildings. Turning to the siting, the front building (Block A) would be broadly aligned with the building line of the adjoining 4-14 Upper Marlborough Road, but forward of no. 22-24. This would be very close to the road.
12. The combined effect of the siting, scale and mass would be harmfully prominent in the Upper Marlborough Road streetscene. The proposed development would be visually jarring and would dominate the important frontages of 4-14 Upper Marlborough Road and unacceptably undermine the appreciation of the historic features of these locally listed buildings. Taking into account the contribution of the nineteenth century development and areas of townscape value to the significance of the CA as a whole, the proposed development would be seriously harmful to these characteristics.
13. The eastern building (block B) would be set back further from the eastern boundary than Marlborough House, with the rear part at a similar height to the existing building. There would also be a recess to the central part of the rear elevation. Nevertheless, the building would be larger and wider than the existing and would change from a mostly blank façade to an elevation with frequent openings. In addition, Block B would be taller than Block A. Overall, this would bring an increased bulk and massing towards the rear of the appeal site which would not respect the transition between the topography, scale and character of Upper Marlborough Road and the modest Victorian appearance to Liverpool Road, including the locally listed buildings, and this would be harmful to these features of the CA.

14. A small strip of landscaping is proposed to Upper Marlborough Road along with a replacement tree in this location. Given its relationship with windows and balconies, this is likely to require management in the interests of the living conditions of future occupiers so would be unlikely to be as prominent in the streetscene as the existing tree. Other new trees would be secured at reserved matters stage but are indicatively shown to be small decorative trees in planters within the internal courtyard, which would not be visible within the streetscene. Therefore the proposed development would erode the leafy character of this street.
15. The development seeks to recreate the historic building line of the Victorian properties, but at a size and bulk associated with the modern buildings in this area. Together this results in a scale and massing which is visually inappropriate compared to the historic context, harmfully dominant in the streetscene and jars against both the traditional Victorian buildings and the modern developments eroding the overall aesthetic cohesion.
16. The proposed development would remove the existing building which makes a negative contribution to the CA. However, I am required to pay special attention to the desirability of preserving or enhancing the character or appearance of the CA and the emphasis within Conservation Areas is on ensuring local character is strengthened, not diminished, by change. Therefore, its replacement with an alternative building which would be harmful for the reasons above would be inappropriate.
17. The application has been reviewed by the design review panel, prior to the most recent changes. The panel were supportive of redevelopment but were concerned by the proposal's scale and massing combined with the building line being brought forward, and therefore the potentially negative impact on the Upper Marlborough Road streetscene. Changes were made in response to these comments, however for the reasons set out above they have not been satisfactorily resolved. Taking into account the importance of securing well-designed places, the development would not make an efficient use of land in this regard.
18. The proposed development does not result in substantial harm to the CA in terms of chapter 16 of the Framework. Nevertheless, for the reasons I have set out the development would not be a good quality large scale commercial development and would not preserve the character or appearance of the traditional Victorian townscape. As such collectively these matters would unacceptably diminish the character-defining elements of the CA. Whilst its scale relative to the CA is small, the clear and prominent erosion of significant features that contribute to the CA as a whole is seriously harmful. For these reasons this harm would sit at the mid to upper end of the scale of less than substantial harm.
19. The proposed development would be harmful to the character and appearance of the area, including the St Albans Conservation Area and the locally listed buildings at 3-43 Liverpool Road and 4-14 Upper Marlborough Road. Consequently, it would be contrary to Policies 69 (General Design and Layout), 70 (Design and Layout of New Housing) and 85 (Development in Conservation Areas) of the St Albans District Local Plan Review (1994) (LP). Together these set factors that should be followed to achieve a high standard of design, having regard to setting and the character of surroundings, and enhancing or preserving the appearance of the conservation area.

20. The Framework requires that I balance the harm to designated heritage assets, in this case the CA, against the public benefits of the development. I will return to this matter later in this decision.

Highways

21. There is a need to mitigate the effects of the proposed development on highways and sustainable transport that would be generated as a result of this development. However, the main parties disagree as to the amount that would be fairly related in scale and kind. Hertfordshire County Council (HCC) have a Guide to Developer Infrastructure Contributions (HCC Guide) which provides detailed evidence as to how contributions have been calculated for residential development, and the 2021 HCC Guide calculates a need for a transport contribution of £6,826 per dwelling. HCC have applied this to 76 dwellings and consider a contribution of £518,776 to be necessary.
22. The appellant submits that 44 residential units could be provided in the existing building under permitted development, and therefore the contribution should reflect the net increase of 28 dwellings only, a total of £191,128. However, the change of use from commercial use to dwellinghouses under permitted development is a process that would require prior approval. Taking into account the matters that would be considered and the statement of common ground which agrees that conversion would provide poor quality residential accommodation, I do not have evidence that prior approval would be forthcoming. As such there is not a real prospect that the property would be used in this way. Consequently, I am not satisfied that the proposed development would result in a transport effect equivalent to 28 dwellings.
23. There would have been some employee trips associated with the lawful use of the building, however such journeys are different in frequency and timings to residential trips and detailed evidence as to how many were generated has not been submitted. Furthermore, the existing building has been vacant since 2022 and it is a fundamental part of the appellants case that it is unsuitable for re-use as an office building. As such, at present there are no existing trips associated with this building and this is unlikely to change. In addition, since the application was determined, an updated 2024 Guide has been published and the transport contribution figures have increased. Whilst HCC have not applied this to the current development it casts further doubt that the lower figure put forward by the appellant, would mitigate the effects on transport in this case.
24. Whilst the site is already well connected by sustainable transport, the South Central Growth and Transport Plan identifies improvements to urban realm, footway, wayfinding and bus improvements in the vicinity which are relevant to future occupiers at this site. The contribution would be put towards such measures and these are necessary and relevant to mitigate the effects of the proposed development.
25. For these reasons the appellant's figure of £191,128 would be lower than the effect on sustainable transport and accessibility that would be generated as a result of this development. Therefore, for this appeal, I have taken into account the Council's figure. The S106 is worded in such a way that I am able to take the £518,776 figure into account as an Option 1 Highways Contribution. However, as a consequence, there would not be an affordable housing contribution.

Living Conditions

26. The appellant maintains that increasing the separation distance from the rear boundary would improve the relationship with Liverpool Road. Whilst it was not included in the Council's reasons for refusal, the committee report identifies harm with regard to perceived overlooking. This was also a clear concern from interested parties and it was discussed at the event.
27. The existing stair core is set back 2.7m from the rear boundary, with the main bulk of the building set back by 6m. The proposed development would increase this separation to 11.5m from the main rear elevation and this would be mainly within the height envelope of the existing building. There would also be additional planting along the boundary. However, the rear elevation would be wider and would include a large number of windows serving multiple units. At first floor and above, the windows in the main rear elevation are shown to be obscure glazed. There would also be translucent windows to the ground floor and the central recessed part of the elevation which are set further back, with some at an obscure angle. As well as windows to the north and south elevations. Policy 70 of the LP sets design standards for new housing including requiring a tolerable level of visual privacy with a recommended window to window distance of 27m.
28. The properties at Liverpool Road are two storey terraced houses. They have two storey projecting outriggers and many have ground floor extensions which extend beyond this. These outriggers and ground floors include windows to habitable rooms. Some also have roof extensions with rear windows at second floor. The submitted plans show that the rear elevation of block B would be around 27m from the main rear elevation of these properties, although a minimum of around 22.5m from the rear additions and extensions.
29. The detailed daylight and sunlight evidence shows that there would not be harm to the Liverpool Road properties in this regard. However, the proposed rear elevation which faces these occupiers would contain numerous windows to multiple flats spanning almost the whole width of the plot. A combination of the obscure glazing and the distances and angles of the windows that would create views would mean that there was no direct overlooking between these properties. However, taken together the increase massing along with the extent of the glazing at an elevated height would be overbearing to these properties with a perception of overlooking. This would not be a tolerable level of visual privacy and would not provide a high standard of amenity for existing users.
30. Windows to the offices at 12-14 Upper Marlborough Road face across the site. The development would limit the light to and outlook from some of these windows. However, windows to the rear and the opposite side of the offices would remain suitably open. In combination with the non-residential use of this building, this would not be unacceptably harmful to the occupiers.
31. Therefore, the proposed development would be harmful to the living conditions of existing occupiers with particular regard to the overlooking and overbearing effect to the properties at Liverpool Road. As such, it would be contrary to Policy 70 of the LP, the aims of which are set out above.

Other Matters

Planning Obligation

32. In addition to the highways contribution set out in detail above, the S106 also includes contributions towards the EEAST, NHS, Parks and Open Spaces, Play Areas, Leisure and Cultural Centres, Fire and Rescue Services, Library Services, Secondary Education, Special Educational Needs and Disabilities, the Waste Service Transfer Station and Youth Services. A travel plan is also included, which would encourage the use of sustainable transport modes. I am provided with substantive evidence that these are necessary, relevant and related in scale and kind in order to mitigate the impacts of the proposed development on these services, and they are appropriately index linked. Given the scale of the development and the multiple trigger points and obligations, the monitoring fees are also acceptable.
33. Together policies 4 and 7A of the LP require the negotiation of an element of affordable housing for this development. The St Albans City and District Council Affordable Housing Supplementary Planning Guidance (SPG) provides further guidance and seeks a target of 35% affordable units on this site, subject to viability. In this case, both the appellant and the Council's independent advisor agree that the site cannot provide any affordable housing. However, if there were changes to sales values and construction costs the site may be able to provide some contribution and therefore a review mechanism is included. Given that the site is below the level of affordable housing set out in guidance, this review mechanism is necessary and reasonable.
34. As such, the obligation would be necessary, directly related to and fairly and reasonably related in scale and kind to the development and is necessary to make the development acceptable in planning terms. Therefore, I have taken it into account. Nevertheless, these obligations provide mitigation for the effects of the proposal, and consequently would be neutral in the planning balance.

Public Benefits

35. The Council and the appellant agree that, for the purposes of this appeal, the Council can show a maximum of a 1.7 year supply of deliverable housing land. In addition, the latest housing delivery test results indicate that the delivery of housing was substantially below the housing requirement over the previous three years. There is an emerging local plan that has been submitted for examination, however the housing figure in this document has not been calculated using the standard method as set out in the 2024 Framework. Overall, this equates to a notable and persistent shortfall in housing in this area. I agree with the main parties that this is a very important factor in this case, and I attribute very substantial weight to the provision of housing. The development would also provide the social and economic benefits associated with the provision of residential units including the temporary economic benefits during construction as well as spend from future occupiers.
36. Together Policies 4 and 2 of the LP broadly set out the settlement strategy which seeks to focus development in towns including St Albans and the development complies with this requirement. This local authority has a large percentage of Green Belt land and therefore meeting housing need on land within settlements may reduce pressure to develop sites in the Green Belt. The appeal site is

previously developed land and is in a highly accessible location and I afford substantial weight to the value of using this land.

37. In addition, the development would provide a high level of biodiversity net gain, although in the context of very limited scale of existing biodiversity. The proposed units would also be built to accessible and adaptable standards. It would also exceed the policy requirements for carbon emissions from the building once constructed, although these details would be secured by condition. These benefits would be modest.
38. As such, taking all the above into account, the scheme would collectively provide very substantial public benefits.

Heritage Balance

39. Paragraph 212 of the Framework advises that when considering the impact of development on the significance of designated heritage assets, great weight should be given to their conservation. Paragraph 213 goes on to advise that significance can be harmed or lost through the alteration or destruction of those assets or from development within their setting and that this should have a clear and convincing justification. For the reasons above, I find the harm to be at the mid to upper end of less than substantial harm in this instance. I have a statutory duty to pay special attention to the desirability of preserving or enhancing the character or appearance of the CA. I afford great weight to the conservation of the CA and considerable importance and weight to the serious harm identified to it.
40. Under such circumstances, paragraph 215 of the NPPF advises that this harm should be weighed against the public benefits of the proposal. As set out above, the public benefits of this scheme would be very substantial.
41. Accordingly taking all the above into account, even though there are very substantial public benefits, these would not outweigh the great weight I afford to the serious harm to the CA in this case.
42. Consequently, in the context of paragraph 125c) of the Framework, when read in the round with the rest of the Framework, this would amount to substantial harm and would represent a strong reason for refusing development in the terms set out in footnote 7.

Planning Balance

43. The Council do not have a 5 year housing land supply, therefore paragraph 11(d) of the Framework is engaged. However, further to the findings above, the application of policies relating to designated heritage assets provides a strong reason for refusing the development proposed, as set out in footnote 7. Consequently, the presumption in favour of sustainable development does not apply in this case.

Conclusion

44. The proposal conflicts with the development plan and the material considerations do not indicate that the appeal should be decided other than in accordance with it. Therefore, for the reasons given above the appeal should be dismissed.

H Miles INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Steve Akedu

Christopher Boyle

James Cogan

James Sugrue

Felix Von Bechtolsheim

FOR THE LOCAL PLANNING AUTHORITY:

Rosemary Chatindo

Shaun Greaves

Charles Thompson

INTERESTED PARTIES:

Nicola Palin

Emma Simpson

DOCUMENTS

Highways Contribution Note,

HCC Highways Contribution Note,

Photograph of Marlborough House seen from Liverpool Road in winter.