



Appeal Decision

Site visit made on 25 June 2025

by **A Owen MA BA(Hons) MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 14 JULY 2025

Appeal Ref: APP/C1950/W/25/3361954

Wendover Lodge, Church Street, Welwyn, Hertfordshire AL6 9LR

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant outline planning permission.
 - The appeal is made by Mr J K Rudkin against the decision of Welwyn Hatfield Council.
 - The application Ref is 6/2024/1029/OUTLINE.
 - The development proposed is erection of 3 storey block of 14 2-bed flats restricted for the over 55's, with semi-basement parking.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The application was submitted in outline form with matters of access, layout and scale to be considered at this stage, and matters of appearance and landscaping to be reserved for later consideration. I have determined the appeal on the same basis and so any details on the plans relating to the reserved matters have been treated as illustrative only.
3. The appellant refers to a previous planning permission¹ that was granted at the site for eight flats. The appellant states this permission has been implemented, by the installation of concrete foundations, and has provided evidence to demonstrate that this was documented at the time. The Council state that the development was not lawfully commenced because a number of pre-commencement conditions on that permission were not discharged, including providing samples of materials, which the appellant does not dispute.
4. It is not for me to determine whether that consent is extant or not. Nonetheless, given that nearly 30 years have passed since that permission was granted and that the foundations were installed around 24 years ago with no evidence of any other development undertaken on site since then, it seems unlikely that that development would be realised, even if the permission is extant. I also note that the current proposal is the second one to be submitted in recent years, which also indicates a preference for alternative schemes. That permission therefore has little bearing on my decision.
5. Also it is understood that a large 18th century listed building, which had been converted into flats, had existed on the site until its demolition in the early 1990's. Again, given the passage of time since then, that has had little effect on my considerations.

¹ Ref N6/583/96/FP

Main Issues

6. The main issues are:

- i) the effect of the development on the character and appearance of the area including protected trees, the Welwyn Conservation Area (WCA), the setting of listed buildings, and a non-designated heritage asset;
- ii) the effect of the development on highway safety;
- iii) the effect of the development on surface water drainage;
- iv) whether the development should be required to provide contributions towards affordable housing and local infrastructure and if so, whether there is a suitable mechanism in place to secure that;
- v) the effect of the development on archaeology; and
- vi) the effect of the development on biodiversity.

Reasons

Character and appearance

7. The appeal site is largely an overgrown plot of land on Church Street. It is positioned between a flatted development, known as 8 Wendover Lodge, to one side, and a pair of semi-detached houses on the corner of Lockleys Drive to the other. Behind and opposite the site there are more houses, though it is the rear of those houses and their rear gardens, that face the site. It is close to the centre of Welwyn with commercial properties sited after the junction of Church Street with Lockleys Drive. Despite being close to the core of the village, the site has a closer relationship with the neighbouring residential development because the tall mature trees at the front of the site, and in the gardens opposite, act as a strong visual barrier between the centre of the settlement and the predominantly residential areas beyond. Indeed, these trees strongly inform the character and appearance of the immediate area.
8. The development would provide 14 flats in a single three-storey block with basement parking below. The flats at 8 Wendover Lodge are also three storeys high with basement parking but are arranged in two blocks which, despite being joined at ground floor level, appear as two distinct buildings. The proposal would be wider than either of the two adjacent blocks. Moreover, the top floor of the proposal would be within a mansard roof which would appear bulkier than the crown roof design of the adjacent flats. The combination of the bulky roof and width of the development would result in it having an excessive mass compared with the neighbouring development.
9. The development would be sited towards the front of the plot, being around five metres from the highway edge, and further forward than the neighbouring flats. Without any tree survey before me, it is not known how much of the frontage vegetation could be retained to soften views of the development. However, to my mind, it is doubtful that many of the existing trees could be retained as, because of their scale and proximity to the proposed building, they would so substantially limit light into the development that there would be pressure to remove them. Whilst some low-level planting could be provided or retained along the frontage, it would not mitigate the excessive visual mass of the building which would appear prominently in the street scene, particularly when seen from the southwest from where the contrast with No.35 would be stark. It would be more prominent than the

flats at 8 Wendover Lodge, which are set behind a raised planting bank, and those houses opposite which are also set well back behind the mature trees in their rear gardens.

10. It is recognised that the previous building that stood here was large and had a mansard roof. But such large buildings are no longer characteristic of the area.
11. It is proposed to remove a tree, subject of a Tree Preservation Order, close to the site's northern border. This appears to be one of two large copper beech trees on the site which can be seen from a number of viewpoints on Lockleys Drive, Wendover Drive and from positions further north along Church Street. It hence contributes positively to the character and appearance of the area. Any replacement planting would be unlikely to sufficiently mitigate for the lost tree for many many years. As such, the loss of the tree would be detrimental to the verdant character of the area.
12. The site is within the WCA. The WCA is focussed on the historic core of Welwyn with the modest scale of the buildings there reflecting the modest size of the settlement. The trees across the conservation area, including those at the appeal site, opposite the site, along Lockleys Drive and along the banks of the river, positively inform the significance of the WCA. The loss of the trees at the site, as described above, would therefore be harmful to the significance of the WCA.
13. There is a row of three Grade II listed buildings on the opposite side of the road and to the southwest of the site. They date from the 16th or 17th centuries and their significance mainly stems from their historic interest and their position in the historic core of the village. As a result, their setting is largely informed by the other buildings within that core. Though the development would most likely be seen in their background when looking along Church Street, it is not considered their setting, and therefore their significance, would be harmed by the development.
14. North Lodge is a non-designated heritage asset forming half of the semi-detached pair of dwellings to the south of the site. I understand its significance is as the gatehouse to the former Lockleys Estate. Although it may be possible to see the proposal behind North Lodge, it would be separated from the asset by No 35. Due to this separation, it would not be likely to have any harmful effect on the significance of the asset.
15. Overall, the development would be harmful to the character and appearance of the area, including through the loss of protected trees, and would cause harm to the significance of the WCA. The harm to the WCA would be less than substantial but would still be significant and therefore it is necessary to consider if there are public benefits which outweigh that harm. The provision of 14 homes to add to the local supply is a public benefit, as is the 10% Biodiversity Net Gain (BNG) that the scheme would provide. However, these do not outweigh the great weight that I give to the conservation of the heritage asset.
16. The development would therefore conflict with Local Plan (2023) policies SP 9, which aims to ensure that development relates well to its surroundings including in terms of mass and scale; SADM 15, which requires development to respect the character and appearance of heritage assets; and SADM 16, which states that proposals that result in the loss of protected trees will be refused unless the loss would be compensated and the benefits outweigh the loss.

Highway safety

17. The development would be served by a single access/egress point at its southern end. The access into the site is shown on the elevational plans to be level with the highway. Although elevational details are purely illustrative at this stage, this would be feasible. However, the area in front of the basement parking is limited in size. There are no details to show how servicing vehicles, such as refuse collection vehicles, could enter and leave the site in a forward gear. how any other vehicles unable to access the gated basement parking area could turn within the site, nor how the visitor space in this area could be used safely.
18. The plans show that spaces 9 and 12 in the basement parking area would be tight up against the wall. The highways authority advise there should be at least a 1metre gap to allow for manoeuvring. Moreover, the pedestrian access from the lift and stairs would open straight into the vehicle manoeuvring area which could introduce pedestrian/vehicle conflicts. The basement parking area would therefore not be safe or convenient to use.
19. The development would provide 18 parking spaces in total, including 4 visitor spaces. The Council advise the parking standards suggest 21 spaces would be needed to serve the 14 flats. The parking proposed would therefore be insufficient. The site is close to the centre of Welwyn and the development is intended to be for the over 55s so some day to day needs may be met by walking into Welwyn. However, for many needs, such as larger shopping trips or employment, the residents would most likely need to use their cars. On that basis, I see no reason why a level of parking lower than that suggested by the Council would be acceptable. The failure to provide sufficient parking could lead to indiscriminate parking either on the public highway or within the site which, in both cases, could compromise the safety of highway users.
20. Visibility from the access to the right would be satisfactory with some pruning of the vegetation along the site frontage. To the left, visibility of approaching traffic is good although, due to a curve in the road, part of the southbound carriageway is hidden from view by the dwelling at No.35. However, as this carriageway is not for approaching traffic and as there are double yellow lines preventing parking here, it would only be when vehicles are overtaking that they may cross into the area where there is no visibility. Even if this did occur, part of that carriageway is still visible so most vehicles could be seen, and even if two wheeled vehicles were temporarily hidden by No.35, it would be for a fraction of a second. As such, the visibility of the access would be satisfactory.
21. Nonetheless, the proposal would compromise highway safety. It would therefore fail to accord with policies SADM 2 and SADM 12 of the Local Plan which together require development to have no negative impacts on highway safety and provide suitable levels of parking.

Surface Water

22. The site is within flood zone 1 and so has a low risk of flooding. However, due to the amount of built form that would result from the development, including the access as well as the building, surface water from the site would need to be appropriately managed to ensure it does not run off the site onto neighbouring properties to the rear and the south which are on lower land.

23. The design incorporates a green roof. However, it is not known what impact this would have on the volume of run-off that would need to be managed as it would still be necessary to manage any residual rainwater from the green roof, as well as the rest of the site. The appellant suggests permeable surfaces and attenuation tanks can be used but provides no further details nor whether ground conditions would be suitable for such systems.
24. The previous permission contained no drainage conditions. Nonetheless, as the current proposal is around 50% larger than that previously permitted, it is unlikely that, even with a green roof, the impact on surface water would be less.
25. Without further drainage details, I cannot conclude that the development would accord with policies SP 10 and SADM 14 which together seek to ensure that developments address drainage and flood risk by managing surface water runoff with sustainable drainage systems that have been incorporated into their design.

Contributions

26. Policy SP 7 of the Local Plan advises that, on developments of 10 units or more, 35% of the units should be affordable. No affordable housing is proposed, and it has not been robustly demonstrated that it would be unviable for some of the units to be affordable, nor that an off-site contribution is unviable. Although the provision of housing for over 55s may go towards the need for 620 dwellings for older people as set out elsewhere in the policy, the proposal would still constitute a form of housing which would not be exempt from providing affordable units. The proposal would therefore be contrary to policy SP 7.
27. I understand the previous scheme for 8 units provided no affordable housing. But that scheme would have been considered under a different policy background. In any case, were a similarly sized scheme considered afresh today it would still be below the threshold required to provide affordable housing.
28. In addition, the Council advise contributions to a number of services including libraries, open space and sustainable transport would be necessary. These would all mitigate the effects of the development and so are not positive benefits. Although there is no mechanism in place to secure these contributions, I need not consider the requirements further as I am dismissing the appeal for other reasons.

Archaeology

29. The Council advise the site is within an Area of Archaeological Significance. No archaeological assessment has been provided with the current proposal. The appellant states that one was provided to discharge a condition on the previous consent, but I have no substantive evidence to support that. Nonetheless I see no reason why a condition could not be imposed which requires an archaeological investigation be conducted prior to the commencement of any development. With an appropriate condition in place, the development, in this respect, would accord with policy SADM 15 as set out above.

Biodiversity

30. The development is required to provide BNG of 10%. The appellant's BNG assessment finds that the existing site has a value of 2.47 habitat units comprising lowland mixed deciduous woodland, bramble scrub, grassland and urban trees. It calculates that to provide the required 10% BNG, the development would need to

have a value of 2.74 habitat units. It suggests that this could be achieved through new features, such as the green roof, but also through the retention and enhancement of the existing trees. There is therefore no inconsistency between the assessment and the application drawings which show some trees retained.

31. As landscaping is a reserved matter, it is feasible that the landscaping scheme could incorporate measures, in accordance with the assessment's recommendations, to provide the necessary BNG. This would be secured by a Biodiversity Gain Plan which would need to be submitted to and agreed by the Council. As such, I am satisfied that the development could provide the necessary BNG and it would therefore, in this regard, not conflict with policy SADM 16 which sets out that proposals will be expected to protect and enhance biodiversity.

Other Matters

32. The Council accept that their Housing Delivery Test figure is more than 75% below the housing requirement over the past three years, and therefore paragraph 11d) of the National Planning Policy Framework applies. In these circumstances, planning permission should be granted unless the application of policies in the Framework that protect assets of particular importance provide a strong reason for refusing the development. Such assets include conservation areas. Due to the harm to the WCA, as set out above, the development would conflict with policies in the Framework, such as paragraph 202, which seek to conserve the significance of heritage assets. The application of this policy provides a strong reason to refuse the development. The presumption in favour of sustainable development does therefore not apply.
33. A number of nearby residents raise other concerns, including with regard to privacy and light. As I am dismissing the appeal for other reasons, I need not consider these issues further as they could not lead me to a different decision.

Conclusion

34. The development would harm the character and appearance of the area, including by harming the significance of the WCA and protected trees; would harm highway safety; would not provide a contribution to affordable housing, and it does not demonstrate that it would have no harmful impact in terms of surface water. It would not harm the setting of listed buildings, the non-designated heritage asset or archaeology, but these are neutral factors which do not weigh positively in favour of the scheme. The proposal would provide 14 units to add to the Council's supply and there is a need, as set out in the emerging Welwyn Parish Neighbourhood Development Plan, for homes for older people. This is a significant benefit of the development at a time when housing delivery locally has been below that required. The provision of 10% BNG is also a benefit of modest weight, as would be the visual improvements to this overgrown site.
35. However, the proposal would conflict with the development plan taken as a whole. The other material considerations, including the previous planning permission, do not suggest a decision other than in accordance with the development plan. As such the appeal is dismissed.

A Owen

INSPECTOR