



Appeal Decision

Site visit made on 8 January 2026

by Jennifer Wallace BA(Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30 JANUARY 2026

Appeal Ref: APP/J1915/W/25/3374781

Manorview, 21 High Street, Walkern, Hertfordshire SG2 7PA

- 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 Millen Homes Limited against the decision of East Hertfordshire District Council.
 - The application Ref is 3/25/0371/FUL.
 - The development proposed is Erection of two detached self-build dwellings with parking and creation of a new vehicular access way.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Amended plans were submitted to the Council prior to the application being determined however the Council did not accept these. That was a procedural decision of the Council and does not fall within the remit of this appeal.
3. Those amended plans have been submitted as part of the appeal. I have considered whether it would be appropriate to accept these, having regard to the guidance in the 'Procedural Guide: Planning Appeals – England', and the tests given in the 'Holborn Studios' judgment¹. The Procedural Guide makes clear that the appeal process should not be used to evolve the scheme and that in most cases the appeal should be determined on the basis of the plans upon which the Council made its decision.
4. Drawing Number R2 HSW EL 001 Elevations P1 and 2 introduces amended materials in the form of weatherboarding and is a minor change. Drawing Nos HSW001 Revision 1, HSW002 Revision 1 and HSW003 Revision 1 all show the site access moved from the location of the existing access to a point on the southern boundary of the site. This was to address concerns raised by the local highway authority with respect to visibility splays. While a small change, it nonetheless fundamentally alters the proposal in terms of the land necessary to deliver the development. Interested parties, including the local highway authority, may not be aware of these amended plans. Their interests may therefore be prejudiced. I have therefore proceeded to determine the appeal on the basis of the plans listed in the decision notice.
5. Furthermore, the site location plan amends the red line of the site. I have not been provided with any assurance that the ownership certificate submitted with the

¹ Holborn Studios Ltd v The Council of the London Borough of Hackney [2017] EWHC 2823 (Admin)

application remains valid or that the landowners have been notified of this amendment. I could not accept the amended layout in this circumstance.

6. A planning obligation, dated 14 October 2025 pursuant to Section 106 of the Town and Country Planning Act 1990 (as amended) has been submitted which sought to secure the dwellings as self build. I will return to this in due course.
7. The site lies within the setting of at least one listed building and within the Walkern Conservation Area. Sections 66(1) and 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) require me to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses; and to pay special attention to the desirability of preserving or enhancing the character or appearance of the conservation area.

Main Issues

8. The main issues in this appeal are:
 - the effect of the proposal on the character and appearance of the area including whether it would i) preserve the settings of the nearby listed buildings and ii) preserve or enhance the character or appearance of the Walkern Conservation Area;
 - the effect of the proposal on highway safety;
 - the effect of the proposal on protected species; and
 - whether the proposal would make appropriate provision for biodiversity net gain;

Reasons

Character and Appearance

Special Interest and Significance

9. Lying immediately adjacent to the site, Walkern Free Church (United Reformed Methodist)² (the Church) is a Grade II listed building. Dating from 1811, it is a small rectangular chapel finished in stucco with a slate roof. It is set back from the road. Its special interest lies mainly in its historic interest as to the role of religion in the settlement and its architectural interest as a largely unaltered chapel. Relevant to the appeal, the asset's special interest also stems, in part, from its setting which includes the appeal site.
10. The immediate setting of the Church is formed by its graveyard in which the Church occupies a central position. This defined space has historic, functional, physical and visual links which adds to the ability to appreciate its historic interest. The appeal site, by virtue of its undeveloped nature, enhances this significance by allowing the social importance of the Church and its position within the graveyard to be further appreciated in glimpsed views.
11. The appeal site also lies within the Walkern Conservation Area (CA) which follows the linear pattern of the historic core of the village. Its character and appearance

² List Entry Number 1308152 Date First Listed 31 May 1984

and thus special interest and significance are mainly derived from its historic interest as an evolving rural settlement with evidence of occupation dating back to at least the first century AD. It also has architectural interest arising from the range of buildings of different ages, quality of materials and the interspersion of fields and holdings within the settlement providing a strong connection to its rural surroundings. The open spaces and gaps provide connection with the surrounding rural landscape and provide a softening of the built form of the settlement. The appeal site, as one of these open and undeveloped spaces, positively contributes to this characteristic feature of the CA, irrespective of the fact it is not highlighted as such in the Walkern Conservation Area Character Appraisal and Management Proposal.

Proposal and Effects

12. The appeal site comprises an undeveloped area identified by the parties as a paddock. While the appellant's heritage statement refers to the land as leftover, or as being within the garden of 21 High Street, there is no substantive evidence to demonstrate either of these is the case. At the time of my site visit it was somewhat overgrown. Its boundaries were marked by fencing, with a combination of trees and hedgerows. It appears as one of the interspersed holdings in the CA. Development along High Street becomes more spacious towards the outskirts of the settlement, with 21 High Street, a late 20th century bungalow, and Walkern Free Church to either side of the site, both occupying spacious plots. Directly opposite the site, the land appeared as a large open space associated with other buildings and well maintained. To the rear of the site lies open countryside, although development along Church End could be viewed across the site.
13. The proposal is for two identical bungalows with staggered elevations to three sides and with dormer windows to the front and rear. As a result, the proposal would have a complex roof form. The proposed dwellings would not display a single linear length block due to the irregular floor plan of the dwelling. There are no design features which would suggest that inspiration for the design had been taken from traditional or vernacular farmhouse design. Nor have I been provided with the detailed analysis of traditional building forms within the CA referred to by the appellant.
14. There would be a limited separation between the two properties. The rear of the properties would be screened by tall close boarded fencing set roughly halfway along the length of the dwellings. The majority of the frontages of the properties would be given over to parking and turning spaces. While there is a variety of landscaping in the area, the surrounding countryside remains perceptible. The appeal proposal, with two dwellings and the height of the proposed boundary treatments, would not allow for views through to the surrounding countryside. Taken together, the proposal represents a clearly suburban form of development.
15. 21 High Street is a bungalow identified as dating from the 1980s. It lies within a spacious plot, allowing views through to the countryside beyond. Irrespective of the architectural merit of the building, the layout of the plot and scale of development support the transition from the more densely developed areas of the High Street towards the lower density rural outskirts of the settlement. This distinguishes it from the increasing density of development moving towards the centre of Walkern.

16. The normal domestic occupation of two dwellings would be unlikely to materially harm the ability to appreciate the special interest of the Church. However, the suburban form of the proposed development and the limited separation between its built form and the Church would reduce the ability to appreciate the social importance of the Church, by enclosing its open setting. While views of the Church may only be glimpsed due to the landscaping along the boundary treatment, the space in which the Church sits remains as a perceptual feature which allows its importance to be appreciated particularly in glimpsed views moving from the centre of the settlement. The limited height of the proposed dwellings would not alter my assessment.
17. The proposal would reintroduce the higher density development found within Walkern just as densities are reducing and layouts altering to reflect the transition away from the settlement and into the surrounding countryside. Consequently, the proposal would be incongruous with the character and appearance of the High Street. It would also erode the value of the site as an open space which is a key characteristic of the CA. Consequently, the proposal would not preserve the character or appearance of the CA as a whole. As the site lies within the CA, it is not necessary to consider how the setting of the CA contributes to its significance.
18. Beyond the Church lies The Grange which is also identified by the appellant as 9 High Street. It is taken that the Council's report is meant to refer to No.9 when it cites No.6 High Street. This is a substantial detached property, sitting in a spacious plot and, similar to the Church, is well set back from the road. However, given the scale of the plots in the vicinity of the appeal site, the position of dwellings relative to the highway is not a defining characteristic.
19. I find the proposal would not preserve the setting of the Church and would not preserve or enhance the character or appearance of the CA. It would therefore cause harm to the significance of these designated heritage assets.

Public Benefits and Heritage Balance

20. Paragraph 212 of the National Planning Policy Framework (the Framework) sets out that great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether this would amount to substantial harm, total loss or less than substantial harm to significance. Paragraph 213 further advises that any harm to, or loss of, the significance of a designated heritage asset should require clear and convincing justification.
21. Given the scale of the development, I find that the harm to the significance of the CA would be less than substantial and at the mid-point of that category. The harm to the significance of the Church would be at the lower end of less than substantial harm. Nevertheless, these harms carry considerable importance and weight. In such circumstances, paragraph 215 of the Framework confirms that these harms should be weighed against the public benefits of the proposal.
22. There would be a public benefit from the delivery of two additional dwellings. There would also be the associated economic benefits during the construction and occupation stages of the proposal. However, these would be limited given the proposal is for two dwellings. Consequently, in giving considerable importance and weight to the identified harm to the significance of the designated heritage assets, I find that this is not outweighed by the public benefits arising from the proposal.

23. The proposal would not preserve the settings of the nearby listed buildings and would not preserve or enhance the character or appearance of the SCA. This is contrary to the requirements of sections 66(1) and 72(1) of the Act, and the provisions within the Framework which seek to conserve and enhance the historic environment. It is also in conflict with East Herts District Plan (adopted October 2018) (EHDP) Policies GBR2, VILL1, DES4, HA1, HA4, HA7 and Walkern Neighbourhood Plan (made July 2018) (WNP) Policy 3 which taken together require development to be of a high standard of design that reflects local distinctiveness and to at least preserve or conserve the significance of designated heritage assets. WNP Policy 14 refers to diversification of farm businesses and so is not of direct relevance to the proposal.

Highway Safety

24. Access to the site would be directly onto the B1037. At my site visit I observed traffic calming measures along this road, including speed bumps and a chicane. One of the build outs to the chicane is in close proximity to the site.
25. There is no dispute between the parties of the extent of visibility splay that would be required to allow safe egress from the appeal site. However, some of the land necessary to secure the visibility splay does not lie within the appeal site. The appellant has provided an untitled plan dated 31 January 2025 produced by Highway Boundaries and Land Charges Hertfordshire County Council. This does not include a key to the notations on the plan. However, even if I were to assume that the orange colouring shows the extent of the highway boundary, it is not at a sufficient scale for me to be certain that the visibility splay would not lie within the ownership of third parties. Consequently, I cannot be certain that an appropriate visibility splay could be secured.
26. Furthermore, concern has been highlighted with the position of the visibility splay and the potential delay in intervisibility with other road users. As those road users who are more likely to be closer to the kerb line are more vulnerable road users, this would also have an unacceptable effect on highway safety.
27. The levels of traffic generated by two dwellings would not be significant and would not cause severe residual cumulative impacts on the road network. Nor would it affect the character of High Street. However these would not overcome the harms I have identified.
28. The proposal would therefore have an unacceptable effect on highway safety. It would fail to comply with EHDP Policy TRA2 which requires development to be acceptable in highway safety terms.

Protected Species

29. Paragraph 99 of Circular 06/2005³ confirms that, with regard to species protected by law, "It is essential that the presence or otherwise, and the extent that they may be affected by the proposed development, is established before the planning permission is granted".
30. The Council's ecological consultant identified the site had the potential to support protected species and that a Preliminary Ecological Appraisal (PEA) would be

³ ODPM Circular 06/2005 Biodiversity and geological conservation – statutory obligations and their impact within the planning system

necessary. The appellant has submitted a PEA as part of the appeal. However, this relates to another site within Walkern and so does not assess the potential of the appeal site to support protected species. Nor could it be assumed that the recommended enhancement measures would be applicable to the appeal site.

31. I therefore cannot conclude that the proposed development would not have an adverse effect on protected species. This would be contrary to EHDP Policy NE3 which requires development to seek to enhance biodiversity.

Biodiversity Net Gain

32. Under the statutory framework for biodiversity net gain (BNG), every grant of planning permission is deemed to have been granted, unless exempted, subject to the condition that the biodiversity gain objective is met. The application form states that the proposal would be self-build. This is one of the exemptions set out in the Biodiversity Gain Requirements (Exemptions) Regulations 2024 (the regulations). However, the regulations also provide that "self-build or custom housebuilding" has the same meaning as in section 1(A1) of the Self-build and Custom Housebuilding Act 2015. In order for the proposed dwelling to benefit from the exemption, it would be necessary to ensure compliance with that definition.
33. The Planning Practice Guidance (PPG)⁴ confirms that "In considering whether a home is a self-build or custom build home, relevant authorities must be satisfied that the initial owner of the home will have primary input into its final design and layout". It further confirms that "Off-plan housing, homes purchased at the plan stage prior to construction and without input into the design and layout from the buyer, are not considered to meet the definition of self-build and custom housing". The proposal before me is an application for full planning permission for two identical dwellings. There is no evidence before me to identify who the initial owner of the homes would be, or that they have had primary input into their final design. Consequently, I am not satisfied that the proposal would meet the definition of self build.
34. Notwithstanding, the appellant has submitted a unilateral undertaking (UU) to secure the development as self build. However, this refers to plots and plot passports. There is no suggestion anywhere in the evidence before me as to how that would relate to the proposal before me where the proposal is for full permission. Marketing the plots to those on the self build register would not meet the necessary criteria. The UU would not address the failure to meet the definition of self build I have identified above.
35. The appellant also refers to matters being addressed through the submission of reserved matters conditions. However, such conditions could not be imposed on a grant of full planning permission.
36. For the purposes of mandatory BNG, the dwellings should therefore be considered as market dwellings and so would be subject to the biodiversity gain condition. The PPG⁵ confirms that BNG will often be a material consideration, and it should be considered, where relevant, whether the biodiversity gain condition is capable of being discharged successfully. To this end, there are minimum national information requirements in relation to BNG which applicants must provide. While

⁴ Paragraph: 016 Reference ID: 57-016-20210208 Revision date: 08 02 2021

⁵ Biodiversity net gain Paragraph: 002 Reference ID: 74-002-20240214

a habitat plan was submitted with the appeal, it has not been accompanied by all of the other information required by Article 7 of The Town and Country Planning (Development Management Procedure) (England) Order 2015. As the submitted PEA does not relate to the appeal site, it would not provide an alternative source of information.

37. The application therefore fails to demonstrate that it would be exempt development or that the biodiversity gain condition could be met. This is contrary to the requirements of Schedule 7A of the Town and Country Planning Act 1990 and paragraph 187 of the Framework insofar as it requires decisions to contribute to and enhance the natural and local environment by providing at least a 10% net gain for biodiversity.

Other Matters

38. Historic England (HE) were consulted on the application and confirm that Manor Farm house (also known as Farmhouse at Manor Farm) and its Dovecote, both Grade II* listed, are within their particular remit. HE's comment identifies that they have concerns, and that the proposal could have an effect on Manor Farm house. From the evidence before me, the significance of Manor Farm house mainly lies in its architectural interest as a vernacular house dating from circa 1700 and its historic interest as to the development of Walkern and its agricultural background.
39. Of relevance to the appeal, the immediate setting of Manor Farm house is informed by those grounds around the building and the associated structures, a number of which are listed in their own right. More widely, its setting is informed by the spacious and intermittent nature of development along High Street and the connections this provides to the surrounding countryside. As expressed by HE, its landholdings may have stretched to the road and the appellant also acknowledges this may be the case. Nonetheless, there is no further evidence or robust assessment before me to allow me to establish if this were the case. Consequently, I am unable to determine the extent to which the appeal site, as part of the assets' wider setting, contributes to their significance, and thus any effects that would arise as a result of the proposed development. However, as I am dismissing the appeal for other reasons, it is not necessary for me to address this matter further.
40. The site lies within the designated rural area beyond the green belt and the Council accepted the site was for infill development in a sustainable location in accordance with the policies directing development within this area. While the Council's report identified some conflict with other policies of the development plan, conflict with the settlement strategy for the area in principle did not form one of their reasons for refusal. I have no reason to reach a different conclusion on this matter.
41. There would be public benefits from the delivery of additional dwellings and the associated economic benefits as set out above. I have been directed to other appeal decisions where self build has been accepted as weighing in favour of proposals. However, as this proposal does not meet the definition of self build, this would not provide any additional weight in favour of the proposal. While landscaping of the site has been proposed, this is to be expected of any well designed development.

42. The Council provided cogent reasons for refusal, supported by the reasoning contained within the officer report and supplemented by their statement to this appeal. It was a decision of the Council not to accept amended plans or to progress a legal agreement in light of their other concerns. Those decisions do not equate automatically to a failure to engage constructively as required by paragraph 38 of the Framework. In any event, a failure to comply with paragraph 38 would not alter my assessment of the proposal before me.

Planning Balance

43. It is not in dispute that the Council cannot demonstrate a five year supply of deliverable housing land. In such circumstances, paragraph 11d) of the Framework is engaged. My findings in respect of the harm to the significance of the Church and the CA means that there are policies in the Framework that provide a strong reason for refusing the development proposed. Therefore, in accordance with paragraph 11d)i of the Framework, the proposal does not benefit from the presumption in favour of sustainable development.

Conclusion

44. The appeal proposal would conflict with the development plan when read as a whole. There are no material considerations, including the Framework, of sufficient weight to indicate the decision should be taken otherwise. For the reasons given, I conclude that the appeal should be dismissed.

Jennifer Wallace

INSPECTOR