

PLANNING AND WELWYN GARDEN CITY

(A lay person's guide produced by the Welwyn Garden City Society)



Moorlands – Beehive Conservation Area

Introduction

This guide seeks to outline the planning laws that relate to this town and explain how they have come about and why they are necessary.

It is not intended as legal or planning advice; such advice must be sought from professional advisers. It is intended to enable the lay person to understand the generality of why the planning situation is more complex in Welwyn Garden City than elsewhere and why these laws are still very necessary and important to the town.

One simple explanation for the complexity of the planning laws that exist here is that the concept of a 'garden city' is not defined in any planning laws. Therefore, the town has to rely on aspects of different laws for its continued protection. It is subject to a series of layers of national legislation that are rarely specific, often designed for different general purposes and are, at times, both overlapping and confusing.

Background

Welwyn Garden City was founded before the modern planning laws were conceived. These laws were enshrined in the 1947 Planning Act in response to the unrestrained, and largely uncontrolled,

'ribbon' developments along the primary roads and bypasses in the interwar years of the early twentieth century.

The Second Garden City Company Ltd saw the town as a single entity. Thus, it was able to plan and manage the roads, gardens, trees and housing in the context of the overall streetscape – how it all looked. Letchworth and Hampstead Garden Suburb are similar, but few later examples have been able to match it. That original totality of planning is what the town is now famous for and gave it its unique character.

All the houses were sold with 999 year leases or rented, thus enabling the company to keep control over the development in the town. These leases were the means by which the company could control changes and alterations to any property. It should be borne in mind that leasehold purchase was the commonest form of ownership until relatively recently. Ebenezer Howard's original intention, as at Letchworth, was that the increase in land value that accrued by development would revert to the benefit of the town.

However, public and political disquiet of the implications of leasehold ownership in that the property ownership passed back to the Ground Landlord on expiry of the lease, led to the Leasehold Reform Act of 1967. This changed the law so that all leaseholders, if they wished, could buy their freeholds. The same Act allows landlords, typically in blocks of flats for instance, to extend those very same leasehold conditions for mutual benefit in maintaining the standards of care and maintenance to freeholders.

In Welwyn Garden City this was implemented by a decision of the High Court on 28 June 1973. It formalised the conditions that then formed the Estate Management Scheme (EMS), but it only relates to properties that were held either under leases from the original Company, or its successor, the Commission for the New Towns, at the time of the High Court decision.

Organisation issues

In 1948 the company was compulsorily purchased by the Commission for the New Towns as part of the drive after WWII to develop certain towns, with Central Government funding, to increase the number of homes that were then in such short supply. In effect, it was to continue the work of the Second Garden City Company in managing the town. The Commission retained the people who had designed the town originally, notably Louis De Soissons - the town's original architect, and both his ideas and the thinking behind it all continued until the time of his retirement.

Central government imposed tougher rules on new development at the time so that, for example, less space for each house was allocated. This explains why houses in newer parts of the town are built more closely together.

The Commission for the New Towns was wound up in 1978 and its assets and obligations were passed to what has now become our Borough Council. The exception was the commercial property. This was retained by the Government of the day and sold with the proceeds going to central government. This is unlike Letchworth, where the increased land value of the commercial properties accrues to the town through the Heritage Trust.

Local government itself has also been reorganised more than once and, arguably, direct local accountability diminished. Responsibilities have been split and re-allocated between County and Borough; and new regulations, imposed by central government, have to be taken into account. Responsibilities within local and county authorities have been further split between separate functions (eg, planning, environment, roads, footpaths, etc)

Consequently, the management of that single entity, the 'Garden City', has become fractured and difficult as each department seeks to manage its own focused area. Rules and policies, whether from local authorities or imposed by central government, tend to be imposed by function and do not take into account the wider context of the 'Garden City' on which the place was designed. So, for example, some trees in the town are owned by the County Council and others by the Borough Council. It is easy to see the sort of difficulties that this creates for those that manage the town.

The Local Plan

An example of where the Local Plan imposes legality on planning is, in our case, Policy TCR 11. It reads as follows:

“...the Council will allow proposals for the conversion and change of use of buildings for office, community, cultural and residential uses (Use Classes B1(a), C3 and D1), provided that the proposal would: (i) Preserve or enhance the character of the Conservation Area; and (ii) Not harm the amenities of the occupiers of nearby residential areas. Proposals for the redevelopment of existing buildings in these areas will not be permitted unless it can be demonstrated that the new building would enhance the character of the Conservation Area.”

This is a key policy that has the effect of law ensuring, for example, J D Wetherspoon was not allowed to convert a residential house into a public house on Parkway.

The Borough Council has to obtain approval to its proposed Local Plan from the Planning Inspectorate who will judge it to be ‘sound’ or otherwise. If it fails that test, the authority can be placed in special measures. If it is agreed, the plan drives the planning process until the next plan is produced and passes its own ‘soundness’ test.

Conservation Area Act 1990

As part of the District Plan the Council is required to designate areas of particular design or historic interest as Conservation Areas. These are defined as “*areas of special architectural or historic interest, the character of which it is desirable to preserve or enhance.*”

The town has two Conservation Areas: Welwyn Garden City town centre and residential areas to the west and the Beehive area.

This Act restricts the ability of residents to knock down their property and seek to rebuild in a style that does not fit with the area. It also requires the local planning authority to ensure that proposed changes to property fit with the area.

Note that there are local policies, described in the preceding section, that effectively extend these provisions to other parts of the town.

These Acts can only be changed by an Act of Parliament. It should be noted that many directions issued by central government specifically exclude Conservation Areas. This, in effect, safeguards these areas from the latest ministerial idea.

The Leasehold Reform Act 1967

This is the Act used to set up the Estate Management Scheme which applied the same conditions that applied to leaseholders to those who purchased their freeholds. It also gave them an arbitration clause which is governed by the Arbitration Act.

Only Parliament can change or remove this law, and only the High Court – First Tier Tribunal - could agree to the Estate Management Scheme being altered or withdrawn.

The Arbitration Act 1950

Normally, all planning disputes are settled by appeal to the Planning Inspectorate under the Planning Acts. Freeholders, however, have the right to have EMS disputes settled by an Independent Arbitrator appointed by the President of the Institute of Arbitrators under the Arbitration Act 1950 and any subsequent legislation amendments.

Only Parliament can change or remove this law.

National Planning Policy Framework (NPPF)

This sets out the policy directives on Area Planning and Local Plans, the general rules guiding planning applications, as well as the criteria under which planning applications should be considered. The NPPF applies throughout England and takes a universal approach. These 'reforms', introduced in 2012, were intended to make the planning system less complex and more accessible.

NPPF is notable in that, for the very first time, it refers to new developments that could be developed on 'garden city principles'. These principles are, however, not defined. If the ideas currently promoted in a number of locations are any indicator, they can be 'all things to all men' from planting a few trees to self-supporting communities that nod towards Ebenezer Howard's thinking but not his principles.

NPPF is an example of Secondary Legislation which is under the control of Ministers who modify them from time to time as the political mood changes. It has consequences for the town that are rarely considered, let alone appreciated by central government.

Conclusions drawn by the Society

The garden city is not especially well protected through laws set by Westminster. The fact that it has acquired some protection is down to its residents who have championed its difference and its unique heritage. This is evident even after a brief visit to Welwyn Garden City.

The laws that apply to most parts of the country do not fit easily with the ethos of this town, founded as it was on 'garden city principles'. These have enabled the town to retain its character and appeal. They have enabled it to grow old and still look better with age. This contrasts with so many newer towns and developments which are subjected to the monolith imprint of Whitehall and too often subject to commercial pressures that have no real regard for the impact they make.

'Garden city principles' are often referred to and indeed they get a mention in the NPPF (Section 52) for the very first time in legislative history; but nowhere are they defined in law.

It remains up to residents to safeguard the town into the future and make use of the laws that are available because otherwise, Welwyn Garden City will simply be lost as somewhere special and turn into yet another 'clone' town.

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