

E/09/0173/B – Unauthorised decking and alterations to fence at the rear of 50 The Elms, Hertford, Herts, SG13 7UX

Parish: HERTFORD - KINGSMEAD

Ward: HERTFORD

RECOMMENDATION

That the Director of Neighborhood Services, in consultation with the Director of Internal Services, be authorised to take enforcement action under Section 172 of the Town and Country Planning Act 1990 and any such steps as may be required to secure the removal of the unauthorised decking and fence.

Period for compliance: 3 Months

Reasons why it is expedient to issue an enforcement notice:

The elevated decking, by reason of its height, size and siting is unduly prominent and visually intrusive when viewed from the neighbouring garden and open space to the south and results in an unacceptable degree of overlooking and loss of privacy to the adjoining residents. The development is thereby contrary to policies ENV1, ENV5 and ENV6 of the East Herts Local Plan Second Review April 2007.

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1.0 Background

- 1.1 The site is shown on the attached Ordnance Survey extract. The property is at the end of a group of three two storey dwellings on the outer area of the foxholes estate, with the rear boundary facing open space and woodland.
- 1.2 It was brought to the attention of the Enforcement team in April 2009 that the owner of the property had constructed raised decking to the rear of the property in excess of 2 metres in height above the ground level of the sloping garden.
- 1.3 On the 24th April 2009, a letter was sent to the owner regarding the concerns that had been raised and requesting a site visit. Following the visit to the site, the owner was advised that the decking and fencing was unauthorised and that a retrospective planning application would be required if the development were to be retained.
- 1.4 On the 6th July 2009, an application was submitted under reference 3/09/1014/FP for the retention of the raised decking and elevated fencing. After due consideration however the application was refused permission on the 28th August 2009 for the following reason:

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1. The elevated decking, by reason of its height, size and siting, is unduly prominent and visually intrusive when viewed from the neighbouring garden and the open space to the south and would result in an unacceptable degree of overlooking and loss of privacy to the adjoining residents. The development is therefore contrary to policies ENV1, ENV5 and ENV6 of the East Herts Local Plan Second Review April 2007.

2.0 Planning History

- 2.1 The recent planning history is as follows:-

3/01/1217/FP	Two storey side extension	Approved	with conditions
3/04/0115/FP	Garage conversion and rear porch	Approved	with conditions
3/09/1014FP	Decking and supports to level out garden Raised fencing to surround (Retrospective)	Refused	

3.0 Policy

- 3.1 The relevant policies of the East Herts Local Plan Second Review April 2007 are :-
 - ENV1 – Design and Environmental Quality.
 - ENV5 - Extensions to dwellings.
 - ENV6 – Extension to Dwellings – Criteria

4.0 Considerations

- 4.1 The site is situated within the urban area of Hertford wherein policies ENV1 and ENV5 apply. The rear gardens along this group of houses are noted for their drop from the rear of the dwellings, by some 2 metres, to the rear boundary and, as such, many of the gardens are terraced with steps and a variety of levels to make best use of the incline of the garden.
- 4.2 The owners of this site have elevated the inclined section of the garden by projecting a supported decking on a frame to the rear boundary with fencing panels enclosing the decking area at a height to the rear boundary of 2 – 2.4 metres. This results in an expanse of high fencing on the boundary with

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the neighbouring property with views of an open room/storage area to the rear of the structure under the decking. When in use the decking area enables the overlooking of the garden next door and it is also possible to see into the rear rooms of the neighbouring property. Officers consider that this degree of overlooking and resultant loss of privacy is unacceptable and contrary to the provisions of policy ENV1.

- 4.3 Furthermore, the elevated decking by reason of its height and scale appears as a prominent and visually intrusive feature when viewed from the adjoining garden and this is detrimental to the character and appearance of the area, contrary to policies ENV1 and ENV5 of the East Herts Local Plan Second Review April 2007.
- 4.4 The view of the structure from the play/open space to the south of the site which is frequented by members of the public for recreation and as an estate footpath is of an unsympathetic structure at odds with the character and appearance of the area due to its height and bulk. It is thereby contrary to policy ENV1 of the East Herts Local Plan Second Review April 2007.

5.0 Recommendations

- 5.1 For the above reasons it is recommended that authorisation be given to issue and serve a Planning Enforcement Notice requiring the removal of the unauthorised decking and fence.