

5f E/11/0176/B – Removal of hedge and shrub planting and change of use of amenity land to residential land at 9 Cublands, Hertford, SG13 7TS

Parish: HERTFORD

Ward: HERTFORD – KINGSMEAD

RECOMMENDATION:

That the Director of Neighbourhood Services, in consultation with the Director of Finance and Support Services, be authorised to take enforcement action under section 172 of the Town and Country Planning Act 1990 and any such further steps as may be required to secure the cessation of the use of the land as residential curtilage; the removal of the fence and the reinstatement of the amenity land to its former condition including new hedge and shrub planting.

Period for compliance: 2 Months

Reasons why it is expedient to issue an enforcement notice:

1. The change of use of the amenity land to form part of the residential curtilage of the dwelling has resulted in the loss of an open landscape strip to the detriment of the appearance of the site and its surroundings. Therefore it is contrary to policies ENV1, ENV2 and ENV7(III) 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. It is located on the Foxholes estate which lies between Stanstead Road to the north and the A414 to the south. Foxholes is a modern residential development of linked houses with parking courts generally located behind groups of houses.
- 1.2 The piece of land the subject of this report lies adjacent to the entrance of one of these parking courts. It originally comprised a landscaped area to soften the appearance of the hard surfacing and parked cars and was planted with shrubs and bushes as part of the landscape condition attached to the residential development of Foxholes, under planning permissions 3/88/0597/FP and 3/88/0112/FP. A similar landscaped strip was provided on the opposite side of the entrance to the parking court – adjacent to number 10 Cublands - and this remains as originally set out.

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- 1.3 In May 2011, concern was expressed to enforcement officers that the owner of the property had removed the bushes and shrubs on the amenity strip and had erected a new 2m high fence enclosing the land and incorporating it into the residential curtilage of his property, number 9 Cublands.
- 1.4 Following a letter to the owner in June 2011 a subsequent site visit was made with the owner where it was explained that the incorporation of amenity land into the residential curtilage of a dwelling constituted a material change in its use for which planning permission is required.
- 1.5 Following the site visit an application for a change of use of the amenity land to residential was submitted on the 22 August 2011 under reference 3/11/1301/FP. After due consideration, however, the application was refused on 10 October 2011 for the following reason:
1. The proposed change of use of amenity land to form part of the residential curtilage of the dwelling would result in loss of an open landscape strip to the detriment of the appearance of the site and its surroundings. It would therefore be contrary to the saved policies ENV1, ENV2 and ENV7(III) of the East Herts Local Plan Second Review April 2007.
- 1.6 Following the refusal of the application, the owners submitted an appeal to the Planning Inspectorate in February 2012. However, that appeal was dismissed on 17 September 2012, the inspector concluding that:
- “The erection of the new fence immediately adjacent to the driveway has reduced the land available for planting in the public area and, in my opinion, has had a detrimental impact on the character of the surroundings. The other fences in the vicinity have landscaped areas in front of them which allows plants to grow up and over them, reinforcing the other, softer, planted sections that divide up the car park. However, in comparison, this particular boundary treatment which, by reason of its design, colour and lack of screen planting differs from other timber fences in the vicinity, appears incongruous..... To grant planning permission for this scheme would also set an undesirable precedent and make it difficult for the Council to resist applications for the removal of other such landscape features in the vicinity.”
- 1.7 Following a visit to the site on 26 February 2013 it appears that, despite the appeal decision, no works have been undertaken to rectify this breach of planning control and the fence remains in situ.

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1.8 Photographs of the site will be available at the meeting.

2.0 Planning History:

2.1 The relevant planning history is as follows:

3/11/1301/FP	Change of use of amenity land to residential (retrospective).	Refused (Dismissed on appeal)
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3.0 Policy:

3.1 The relevant policies of the adopted Local Plan in this matter are:

ENV1 – Design and Environmental Quality.

ENV2 – Landscaping.

ENV7 – Extension of Curtilage of a Residential Property

3.2 The National Planning Policy Framework is also a material consideration in this case.

4.0 Considerations:

4.1 The main consideration in this matter relates to the detrimental impact the new boundary fence and the enclosure of this piece of amenity land has on the character and appearance of the surrounding area.

4.2 Local Plan policies ENV1 and ENV2 seek to retain existing landscape features and areas and policy ENV7 specifically highlights the value of communal amenity areas around housing developments and indicates that planning permission will generally not be given for their enclosure.

4.3 The Foxholes development was designed with a large number of landscaped amenity areas to help soften the appearance of the development and in particular its parking courts. The amenity planting areas perform a valuable function therefore and the Council has successfully resisted the incorporation of these areas into residential gardens on a number of occasions.

4.4 In this case, the amenity strip in question lies at the entrance to a landscaped parking area which serves more than a dozen houses and is considered to have a public view. The removal of the landscaping strip and its replacement with a wooden fence has adversely altered the appearance of the estate at this location as can be clearly assessed by comparing the original planting area alongside the side garden of No10

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Cublands on the opposite side of the car park entrance.

- 4.5 The unauthorised use of the land as part of the garden and the enclosing fence results in a much harsher entrance to the parking court and, if repeated elsewhere would further erode the open, landscaped character of the area, making the use of the parking area much less desirable.

5.0 Recommendation:

- 5.1 It is therefore recommended that authorisation be given to issue and serve an enforcement notice requiring the cessation of the residential use of the land; the removal of the fence (as it enables that unauthorised use) and the reinstatement of the amenity land and landscaping.