

5y E/11/0060/B – Inclusion of communal land into private residential garden and the unauthorised attachment of fencing to a listed wall at 6 Walled Garden, Goldings Estate, Hertford SG14 2WS

Parish: HERTFORD CP

Ward: HERTFORD SELE WARD

RECOMMENDATION:

That the Director of Neighbourhood 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 Section 38 of the Planning (Listed Buildings and Conservation Areas) Act 1990 and any such further steps as may be required to secure the cessation of the use of the communal land as private residential garden and the removal of the attachment of fencing from the listed wall.

Period for compliance: 1 month

Reason why it is expedient to issue an enforcement notice:

1. The unauthorised change of use of the land from communal to residential garden is contrary to saved Policy ENV1 of the East Herts Local Plan 2007; and the fixing of fencing to the listed wall has caused harm to the historic character and appearance of the Grade II listed building, contrary to policy HE8.1 of Planning Policy Statement 5: Planning for the Historic Environment (2010).

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1.0 Background:

- 1.1 The site is shown on the attached Ordnance Survey extract. It comprises two terraced blocks of five dwellings and gardens built within the original north walled garden of the Goldings House, Hertford, one terrace being to the north of the garden and the other to the south. This garden is surrounded by a Grade II listed wall.
- 1.2 A concern was brought to the attention of the enforcement team in February 2011 that the residential garden of no.6 Walled Garden, the eastern end property of the southern terrace of 5 dwellings had extended its residential garden into the communal garden/area of this part of the development.
- 1.3 This particular development was designed to have two terraces of five dwellings with their frontages facing north and south and their rear gardens facing each other in the middle of the development, with a

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central path dividing these gardens. To the east and west there were two paths connecting the fronts of the terraces to each other. These paths formed an H design, with each resident having access to this communal area. This layout can be clearly seen on the attached OS extract.

- 1.4 However, the concern that was raised with the local planning authority centred on one of the end properties, adjacent to part of the communal area/path had removed their boundary fence to include the communal path into their residential garden. To enclose this enlarged residential garden the owners have added a fence across the communal path with a connection to the Grade II listed wall.
- 1.5 Officers wrote to the owner of the property on the 24th February 2011, seeking the restoration of the communal path garden and the removal of the fencing from the listed wall. As no reply was received, a further letter was written on the 1st April 2011. The owner responded to the Council by email on the 4th April 2011 stating that as the fence is less than six feet in height he considered that it did not require planning permission and has never moved or made adjustments to the fence and gates since they have lived at the address. Officers responded to explain that the two issues that required planning permission were the change of use of the communal area to private residential curtilage and the unauthorised fixing of the fence to a listed wall. No response was received.
- 1.6 Photographs will be available at the meeting.

2.0 Planning History:

- 2.1 There is no recent relevant planning history for this property.

3.0 Policy:

- 3.1 The relevant policies of the East Herts Local Plan Second Review April 2007 are:
- ENV1 – Design and Environmental Quality
 - Planning Policy Statement 5: Planning for the Historic Environment (2010).

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4.0 Considerations:

- 4.1 It is considered that the inclusion of part of the communal area into the owners residential garden compromises the existing pattern and layout of the development and whilst there are gates to allow access, the relocated boundary treatment inhibits the use of this area by other parties and prevents easy communal access and pedestrian permeability around the development. If allowed to continue this may set a precedent to the other owners of the end properties and thereby significantly alter the design and layout of the total development. The current alteration is considered to be contrary to Policy ENV1 of the Local Plan.
- 4.2 It is also considered that the attachment of the altered fencing to the listed wall does not enhance or conserve the historic character and appearance of the listed building and therefore is contrary to policy HE8.1 of Planning Policy Statement 5: Planning for the Historic Environment.

5.0 Recommendation:

- 5.1 For the above reasons it is recommended that authorisation be given to issue and serve a Planning Enforcement Notice requiring the cessation of the unauthorised use of communal land as private residential curtilage and to issue and serve a Listed Building Enforcement Notice requiring the removal of the fencing attached to the Grade II listed wall.