

WELWYN HATFIELD COUNCIL
PLANNING CONTROL COMMITTEE – 6TH AUGUST 2009
REPORT OF THE DIRECTOR (STRATEGY AND DEVELOPMENT)

Part I - Enforcement Item

9 IVY WALK, HATFIELD, AL10 9FX

ENCLOSURE OF AMENITY LAND

(Hatfield North)

1 Background

- 1.1 The property is an end of terrace house situated on the north side of Ivy Walk in Hatfield Garden Village. Ivy Walk is footpath and cycleway that leads from Campion Road and links to other footpaths leading to Lavender Close and Cornflower Way. Ivy Walk narrows at both ends and is landscaped on both sides on its approaches, opening up into an enlarged central landscaped amenity area around which the houses are grouped.
- 1.2 The owner/occupier of the property in question has enclosed an area of this open amenity land which, though adjacent to the side of the property projects forward of the main frontage of the house. The land is enclosed by close boarded fencing matching that which encloses the adjacent rear garden of the neighbouring property. Access to the land is obtained by the use of an original side gate; though on entering, one has to turn a full 180 degrees to obtain access to the enclosed area.
- 1.3 Letters from the council to the owner/occupier have sought their cooperation of in relation to the removal of the fencing or the submission of a planning application. The Council has received no formal response or application.
- 1.4 Members should be advised that another property, 17 Daisy Drive in Hatfield, in a similar situation i.e. owned and enclosed an area of adjacent amenity land. An application submitted for the enclosure and change of use of the land was refused by Officers. The application went to appeal and was dismissed.

2 Planning History

- 2.1 Besides the original planning permission granted for this development there is no relevant planning history to date.
- 2.2 Within the original planning permission for this development, permitted development rights for Classes A, B, D and F of Schedule 2 Part 1 and Classes A and B of Schedule 2 Part 2 have been removed in relation to the development which includes the property. Class A of Schedule 2 Part 2 relates to the permitted development with regard to the erection or alteration of a gate, fence, wall or means of enclosure.

3 Summary of Development Plan Policies.

Welwyn Hatfield District Plan 2005

GPSP2 Towns and Specified Settlements

D1 Quality of Design

D2 Character and Context

D3 Continuity and Enclosure

Supplementary Planning Guidance – Hatfield Aerodrome, November 1999

Supplementary Design Guidance, February 2005

4 Planning Considerations

- 4.1 Policies D1 and D2 of the Welwyn Hatfield District Plan require all new development to be of high quality design and respect and relate to the character and context of the area in which it is proposed. Ivy Walk is a footpath centred around an open landscaped amenity area, the properties around which are open fronted. Fencing which enclose the side boundaries of the central properties and rear boundaries of the adjacent neighbouring properties have been restricted to the outer limits of the open amenity area
- 4.2 Policy D3 of the Welwyn Hatfield District Plan requires all new development to incorporate the principles of continuity and enclosure to distinguish between public and private spaces. The fencing used to enclose the amenity area is of the same height and format of that which encloses the side and rear boundaries of the properties surrounding the central amenity area.
- 4.3 In this instance, it is considered that the enclosure of this part of the original open landscaped amenity area has caused both a significant loss in respect of the percentage of landscaping and an adverse impact in relation to the visual appearance and character within the street scene.
- 4.4 The area of landscaping projecting beyond the end walls of both end terrace properties is a design and architectural feature of the original layout. The outer boundary of the landscaping area forming the rear boundaries of the neighbouring property closely mirrors those of the boundaries of the landscaping area and properties on the other side of the pathway. The enclosure of the majority of the open amenity area to the side of the property has created an imbalance in relation to the original symmetry of the row of properties and the open amenity area on the northern side of the footpath to the detriment of the street scene and the visual appearance and character of the area.

5 Human Rights Considerations

- 5.1 The following articles of the Human Rights Act 1998 are considered to be relevant in this case:
- Part 1 Article 8 - the right to respect for private and family life, home and personal correspondence.

- Part 2 Article 1 of the First Protocol - the right to protection of property, including peaceful enjoyment of possessions.

5.2 Both of these rights could be outweighed when considering the general interest and the rights and freedoms of others. Whilst the land is within their ownership, officers are of the opinion that this unauthorised development results in unacceptable harm caused to the surrounding area and adjoining occupiers. In these circumstances the need to remove the unacceptable development in the interests of the community are greater than the needs of the individual.

6 Conclusion

6.1 The enclosure of the open landscaped amenity land is unacceptable for the reasons given and action should be taken to ensure that the fencing enclosing the land is removed.

7 Recommendation

7.1 That the Head of Development Control be authorised to serve an enforcement notice under Section 172 of the Town and Country Planning Act 1990 requiring the Owner/occupier to remove the fencing that encloses the land and to reinstate the area and maintain it as open landscape, and to take any other action, including prosecution proceedings if necessary, to rectify the breach of planning control

8 Time Limit

8.1 Your officers are of the opinion that 2 months should be an adequate amount of time to enable the above steps to be taken.

Chris Conway, Director (Strategy and Development) (MD)

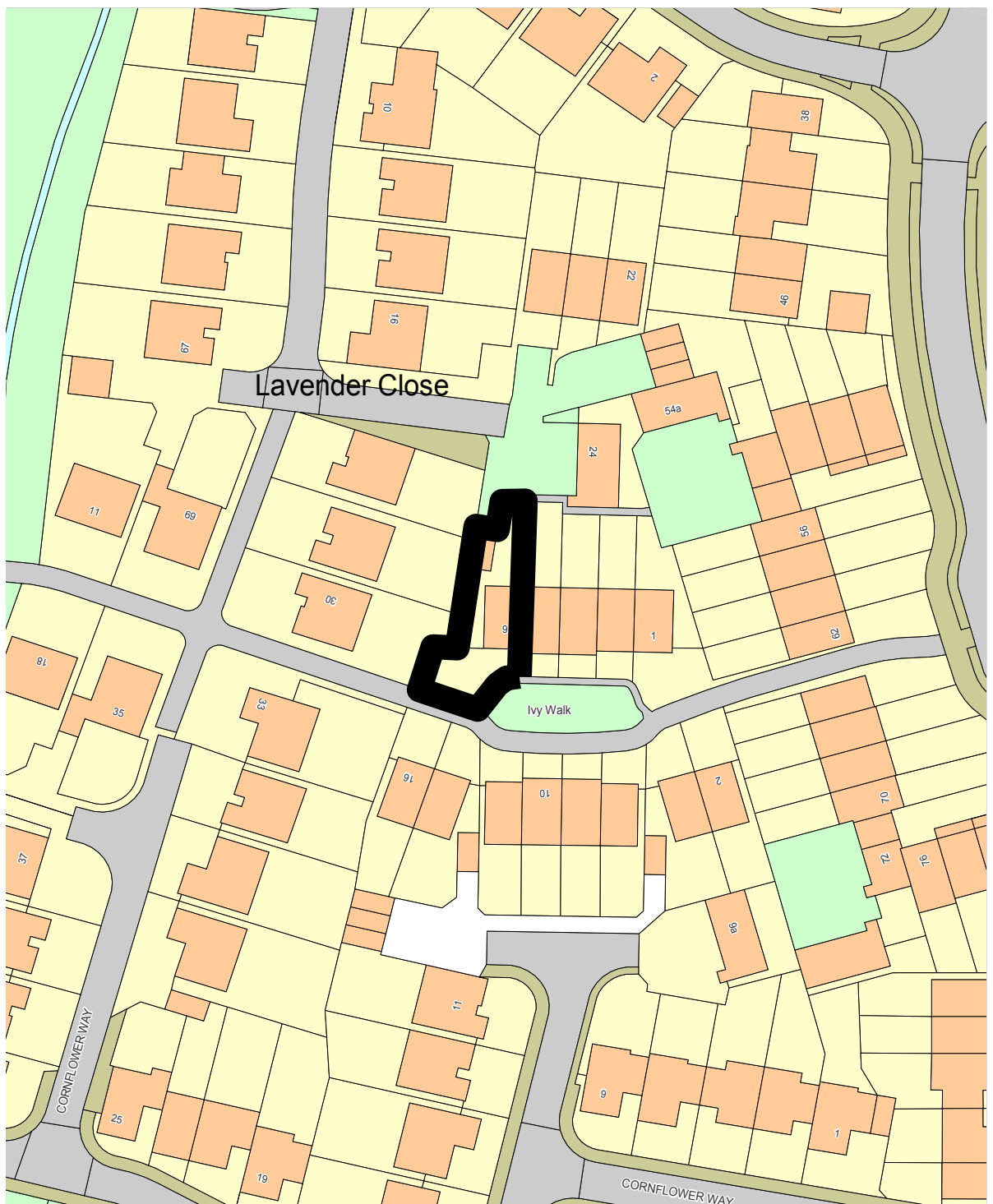
Date 24th July 2009


Background papers to be listed (if applicable)

17 Daisy Drive, Hatfield, AL10 9FX:

Planning & Enforcement Appeal Reference: C1950/C/07/2055254 & 2055256 – Dismissed – 17th January 2008

Planning Application Reference – S6/2007/0721/FP – Refused 5th July 2007



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|  Council Offices, The Campus, Welwyn Garden City, Herts. AL8 6AE | Title: 9 Ivy Walk, Hatfield | | Scale: Date: 6th August 2009 |
| | Project: PCC Meeting | Drawing Number: ENF/06/239 | Drawn: Andrew Windscheffel |
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