

IMPORTANT - THIS COMMUNICATION AFFECTS YOUR PROPERTY

**TOWN AND COUNTRY PLANNING ACT 1990
(as amended by the Planning and Compensation Act 1991)**

**ENFORCEMENT NOTICE
(Change of Use)**

ISSUED BY: Welwyn Hatfield Borough Council ("the Council")

1. **THIS IS A FORMAL NOTICE** which is issued by the Council being the local planning authority for the purposes of Section 172 of the above Act, because it appears to them that there has been a breach of planning control, under section 171A(1)(a) of the above Act, at the land described below. They consider that it is expedient to issue this notice, having regard to the provisions of the development plan and to other material planning considerations. The Annex at the end of the notice and the enclosures to which it refers contain important additional information.

2. **THE LAND TO WHICH THIS NOTICE RELATES**

Land at and known as 9 Ivy Walk, Hatfield, Hertfordshire, AL10 9FX shown edged red on the attached plan (hereinafter called "the Land").

3. **THE MATTERS WHICH APPEAR TO CONSTITUTE THE BREACH OF PLANNING CONTROL**

Without planning permission, the change of use of land from open amenity land to private garden and the enclosing of the land by the erection of a close boarded fence

4. **REASONS WHY THE LOCAL PLANNING AUTHORITY CONSIDER IT EXPEDIENT TO ISSUE THIS NOTICE & ALL POLICIES & PROPOSALS IN LOCAL PLANNING AUTHORITY'S DEVELOPMENT PLAN WHICH ARE RELEVANT TO THE DECISION TO ISSUE THIS NOTICE**

It appears to the Council that a breach of planning control has occurred within the last 10 years.

Policies D1 and D2 of the Welwyn Hatfield District Plan require all new development to be of high quality design and to relate to the character and context of the area. Policy D3 requires all new development to incorporate the principles of continuity and enclosure to distinguish between public and private spaces. The enclosure of this open amenity land results in a significant loss of soft landscaping in the area and has created an imbalance to the symmetry of

the designed landscaping which has an adverse impact on the appearance and character of the area and the street scene. Therefore the development is contrary to Policies D1, D2 and D3 and is unacceptable.

The Council does not consider that planning permission should be given, because planning conditions could not overcome these objections to the unauthorised development.

The purpose of the notice is to remedy a breach of planning control

4A. HUMAN RIGHTS ACT 1998

The Local Planning Authority has considered the implications of the Human Rights Act 1988 ("the Act") regarding the unauthorised development. The following have been considered as relevant under the Act: -

Schedule 1 Part 1 Article 8 – the right to respect for private and family life, home and personal correspondence

Schedule 1 Part 2 of The First Protocol – the right to protection of property, including peaceful enjoyment of possessions

The Local Planning Authority considers both Article 8 of the Convention and Article 1 of the First Protocol can be interfered with where there is a need to consider the general interest and the rights and freedoms of others. In planning terms, where development infringes the rights and freedoms of others, then the Local Planning Authority needs to consider if the needs of the community are greater than the needs of the individual in question. .

The protected rights of the owners/occupants under Part 1 Article 8 would be infringed by the enforcement action. Also, their protected rights under Part 2 of the First Protocol are likely to be affected. However, this development is inappropriate and affects the openness, character and appearance of the locality. Furthermore it would have a detrimental affect on the amenity of the neighbouring properties and of the area by reason of the general disturbance associated with the residential use. In the circumstances the need to remedy the breach of control in the interests of the community are greater than the needs of the owners and outweighs their affected rights.

5. WHAT YOU ARE REQUIRED TO DO TO REMEDY THE BREACH.

1. Remove the close boarded fence surrounding the land.
2. Cease using the land as private garden.
3. Re-instate the approved landscaping.

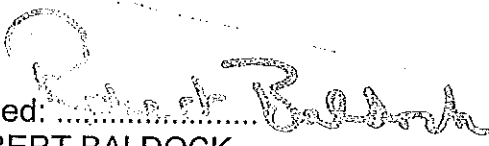
Time limit for compliance: 2 month(s) after this notice takes effect.

6. WHEN THIS NOTICE TAKES EFFECT

This notice takes effect on the 2nd day of August 2010 ("the effective date") unless an appeal is made against it beforehand.

ISSUED this 28th day of June 2010

WELWYN HATFIELD BOROUGH COUNCIL
COUNCIL OFFICES
THE CAMPUS
WELWYN GARDEN CITY
HERTFORDSHIRE
AL8, 6AE

Signed: 
ROBERT BALDOCK
DIRECTOR (GOVERNANCE)
Ref: PS/Dev2/14/389

ANNEX

YOUR RIGHT OF APPEAL

You can appeal against this notice, provided the appeal is received or posted in time to be received by the Secretary of State **before** the effective date given in paragraph 6 above.

The booklet entitled "Making your enforcement appeal" which sets out your rights has now been superseded. You may however find very helpful information on how to appeal on the enclosed guidance sheet entitled "The Planning Inspectorate" and or by visiting this link below this line
http://www.planningportal.gov.uk/uploads/pins/enforcement_making_your_appeal.

Information on where and how to obtain and complete an appeal form can also be found from the link mentioned above.

IF YOU APPEAL

If you lodge an appeal then you must submit to the Secretary of State a statement in writing specifying the grounds on which you are appealing against the enforcement notice. You must also state briefly the facts that you propose to rely on in support of each of these grounds. You must submit this statement either;

- When giving notice of appeal; OR
- Within 14 days from the date that the Secretary of State sends you a notice that requires you to send a statement.

If you wish to have your application considered as a deemed application for Planning Permission or you intend to make an appeal under Ground (A) you may be required to pay a fee.

The fee payable under Regulation 10 of the Town and Country Planning (Fees for Applications and Deemed Applications) Regulations 1989 for the deemed application for planning permission for the development alleged to be in breach of planning control in the enforcement notice is **£335**

This amount is payable both to the Council and the Secretary of State.

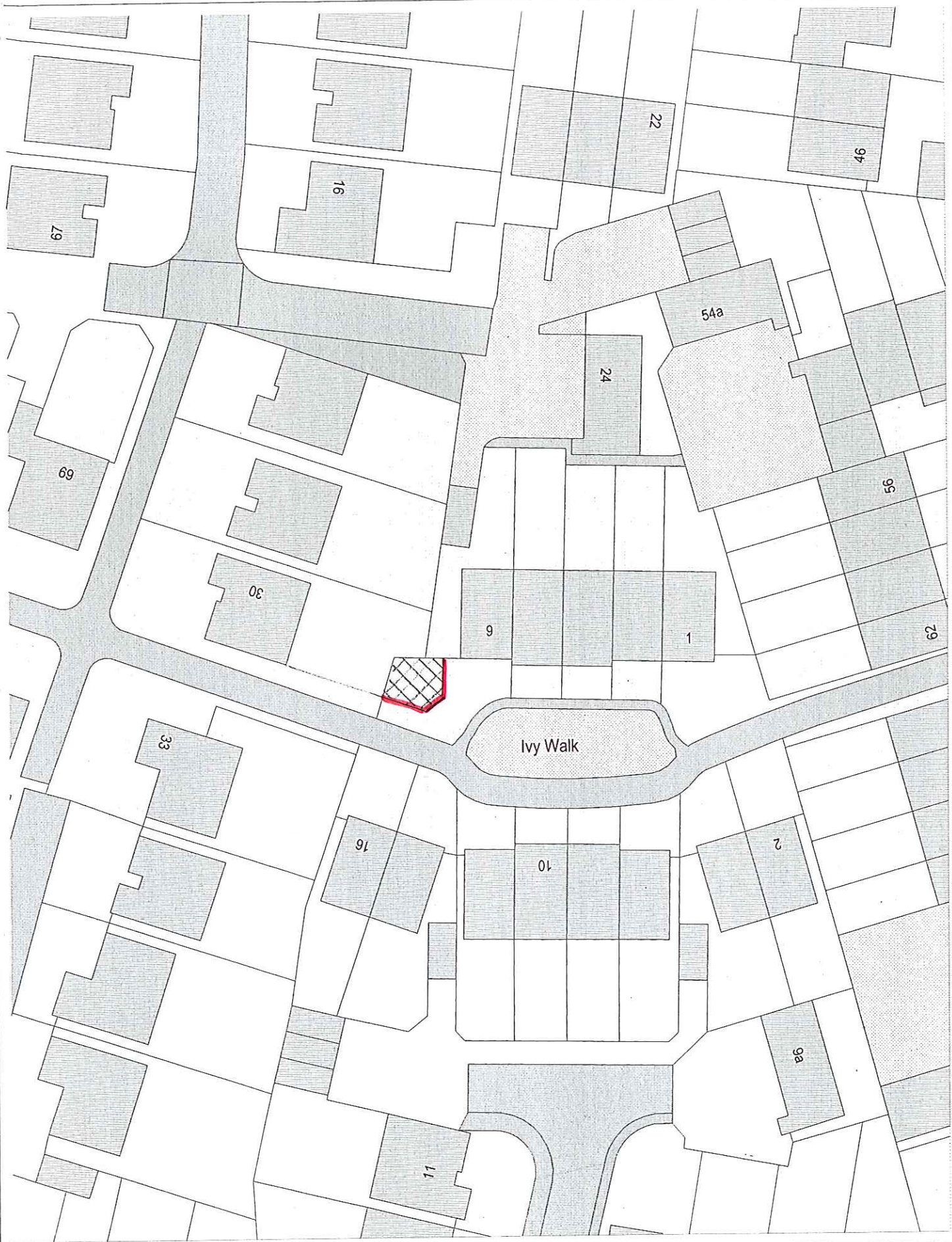
WHAT HAPPENS IF YOU DO NOT APPEAL



If you do not appeal against this enforcement notice, it will take effect on the effective date specified in paragraph 6 of the notice, and you must then ensure that the required steps for complying with it, for which you may be held responsible, are taken within the period(s) specified in paragraph 5 of the notice. **Failure to comply with an enforcement notice which has taken effect can result in prosecution and/or remedial action by the Council.**

WHO THIS ENFORCEMENT NOTICE HAS BEEN SERVED ON

The names and addresses of the persons on whom a copy of this enforcement notice has been served by Local Planning Authority are as follows: -

<u>Name</u>	<u>Address</u>
The Owner/Occupier	9 Ivy Walk Hatfield Hertfordshire AL10 9FX
Simon Phillip Michaels	9 Ivy Walk Hatfield Hertfordshire AL10 9FX
Elizabeth Jane Wylde	9 Ivy Walk Hatfield Hertfordshire AL10 9FX
Bank of Scotland plc	(Registered No. SC327000) Intelligent Finance Division P.O. Box 17316 Edinburgh EH12 1AY



Title:  ENCLOSED LAND
 FENCING TO BE REMOVED
 Project: 9 IVY WALK, HATFIELD
 ENFORCEMENT NOTICE
 Drawing Number: JR/ENF/06/239/2
 Drawn: JR

Scale: 1:500
 Date: 15th October 2009



Council Offices, The Campus,
 Welwyn Garden City, Herts. AL8 6AE