

WELWYN HATFIELD BOROUGH COUNCIL – ESTATE MANAGEMENT SCHEME
DELEGATED REPORT

APPLICATION No:	W6/2013/1783/EM
APPLICATION Site:	29 Lemsford Lane

NOTATION:

The site lies within the Estate Management Scheme area under the Leasehold Reform Act 1967

DESCRIPTION OF SITE AND PROPOSAL:

The application site comprises of an end of terrace dwellinghouse located to the south west of the town centre. Due to its end of terrace location the garden space extends both to the rear and side elevation resulting in a larger plot than the adjoining properties. To the rear of the application site is a small footpath leading to the rear gates of the adjoining properties. To the west of the site is a tree belt beyond which is the A1(M) motorway.

EMS HISTORY:

None

POLICIES:

Estate Management Scheme (EMS) Policies (October 2008):

EM3 – Soft Landscaping

CONSULTATIONS: None

TOWN/PARISH COUNCIL COMMENTS: None

REPRESENTATIONS:

This application has been advertised and no representations have been received. Period expired 4 October 2013

DISCUSSION:

The main issue is:

- 1. Whether the proposal maintains and enhances the amenities and values of Welwyn Garden City and neighbouring occupiers**

2. Material considerations

Policy EM3 of the Estate management Scheme relates to works to trees and hedgerows. It states that works to trees and hedgerows will only be allowed where the works would not result in the loss of landscaping which would harm the character and amenities of the area and where sufficient justification for the works has been given or there are other considerations that apply.

In relation to the impact on the residential amenity of adjoining occupiers the impact of the proposed development on the residential amenity of neighbouring dwellings is measured in terms of the impact on neighbouring properties access to day/sun/sky light, overshadowing, loss of privacy/overlooking and impact on outlook.

The proposal seeks to relocate the existing wooden fencing which exists along the southern and eastern elevations of the plot within the rear garden. The existing fencing is set back from the rear boundary separated by mix of brambles, hedgerow and trees. The proposal seeks to remove all of the existing landscaping features along the southern and eastern elevation and relocate the fence to form the boundary of the application site. The south eastern corner of the application site is located approximately 28m from the highway. The footpath which exists to the rear of the row of properties (23-29 Lemsford Lane) only leads to the rear gardens of these properties with no access beyond No.29 Lemsford Lane. The rear boundaries of adjoining properties, specifically No.23 and No.25 have hedgerows which form a more visible presence within the streetscene and contribute to the softening of the appearance of built development within the streetscene. To the south of the application site is No.31 Lemsford Lane whose side boundary extends along the entire length of the rear boundaries of No.23-No.29 Lemsford Lane and comprises of a 6ft wooden fence. No estate management consent exists for this fencing and therefore should not simply be used as a precedence to allow similar development.

Policy EM3 seeks to refrain from allowing the entire removal of trees and hedgerows which would harm the character and amenities of the area. However, it is considered in this instance that the proposed removal of the landscaping features would not result in a detrimental harm upon the character and amenities of the area taking into consideration that the application site is significantly set back from the highway. Furthermore, the tree belt which exists to the side of the application site provides a significant soft landscaped backdrop when viewed from Lemsford Lane and in the context of the streetscene the loss of landscaping in the rear garden of No.29 would be offset by the tree belt beyond.

The proposed removal of landscaping features and the relocation of the fencing is not considered to result in a detrimental impact upon neighbouring properties as the level of privacy afforded to the rear of the properties would not be compromised by virtue of the height of the fence remaining the same. Whilst the relocation of the fencing will be located closer to the boundary with No.27 Lemsford Lane, the fencing would be sufficient distance from the nearest ground floor windows not to result in a detrimental loss of sunlight/daylight.

Taking into consideration the above, the proposal is therefore considered in accordance with policy EM3 of the Welwyn Garden City Estate Management Scheme.

2. Material considerations

Protected Species

The presence of protected species is a material consideration, in accordance with NPPF, Natural Environment & Rural Communities (NERC) Act 2006 (section 40), Wildlife and Countryside Act 1981 as well as Circular 06/05.

In the UK the requirements of the EU Habitats Directive is implemented by the Conservation of Habitats and Species Regulations 2010 (the Conservation Regulations 2010). Where a European Protected Species ('EPS') might be affected by a development, it is necessary to have regard to Regulation 9(5) of the Conservation Regulations 2010, which states: "*a competent authority, in exercising any of their functions, must have regard to the requirements of the Habitats Directive so far as they may be affected by the exercise of those functions.*" The Conservation Regulations 2010, (Regulation 41) contains the main offences for EPS animals, however the existing site and development is such that there is not a reasonable likelihood of EPS being present on site nor would an EPS offence be likely to occur.

It is therefore not necessary to consider the Conservation Regulations 2010 and amended 2012 Regulations further.

CONCLUSION:

It is considered that the proposal maintains and enhances the amenities and values of the Garden City and is therefore in compliance with the Estate Management Scheme.

RECOMMENDATION: APPROVAL WITH CONDITIONS

EM01.a – 1. This consent shall expire three years after the date hereof (or such other extended date as the Council may agree) unless the works hereby approved shall be completed before that date.

2. All works carried out in pursuance of this consent shall be and remain part of the Premises and shall be subject to the terms and conditions of the conveyance in all respects as if such works had at all times formed part of the Premises.

3. This consent or copy hereof shall be annexed to the Conveyance.

4. There shall be no encroachment over the boundary of the plot either above or below ground level, nor any interference with the foundations of the adjoining property without the agreement of the adjoining owner or lessee.

5. This consent now issued is given by the council only in accordance with the requirements of the Management Scheme/Conveyance or Leasehold Covenants.

REASON: To comply with the requirements of the Estate Management Scheme

6. The development/works shall not be started and completed other than in accordance with the approved plans and details: Community Map (1:250) received and dated 23 August 2013

unless otherwise agreed in writing by the local planning authority.

REASON: To ensure that the development is carried out in accordance with the approved drawings and any changes must be agreed in advance in writing by the local planning authority.

SUMMARY OF REASONS FOR THE GRANT OF PERMISSION:

It is considered that the proposed development does not have an unacceptably harmful impact on the residential amenity or the character of the area in which it is located. It is therefore in compliance with the Estate Management Scheme.

Signature of author..... Date.....