

**Item No. 14****SCHEDULE C**

<b>APPLICATION NUMBER</b>	<b>CB/11/01919/FULL</b>
<b>LOCATION</b>	<b>2 Sandy Lane, Leighton Buzzard, LU7 3BE</b>
<b>PROPOSAL</b>	<b>Change of use: From amenity land to residential garden by erection of a 900mm fence.</b>
<b>PARISH</b>	<b>Leighton-Linslade</b>
<b>WARD</b>	<b>Leighton Buzzard North</b>
<b>WARD COUNCILLORS</b>	<b>Cllrs Johnstone, Shadbolt &amp; Spurr</b>
<b>CASE OFFICER</b>	<b>Nicola McPhee</b>
<b>DATE REGISTERED</b>	<b>13 May 2011</b>
<b>EXPIRY DATE</b>	<b>08 July 2011</b>
<b>APPLICANT</b>	<b>Mr Mario Ciancio</b>
<b>REASON FOR COMMITTEE TO DETERMINE</b>	<b>The Applicants partner is an employee of the Council</b>
<b>RECOMMENDED DECISION</b>	<b>Full Application - Refused</b>

**Site Location:**

The application site comprises 2 Sandy Lane, Leighton Buzzard, a single storey semi-detached bungalow fronting the western side of Heath Road and a triangular shaped area of amenity land across the Sandy Lane and Heath Road corner of the property, also within the ownership of the applicant.

The character of the area ranges from large, detached buildings on large plots to smaller dwellings on modest plots. In addition several of the access roads off Heath Road have amenity areas associated with their junctions, such as Chiltern Gardens to the south east of the site.

**The Application:**

Permission is sought to enclose a triangular part of the amenity land running from the existing northern point of the garden, southwards in a line parallel to Heath Road. The area is currently separated from the residential curtilage by a brick wall just shorter than 1m in height. There is a protected Lime tree that would be retained immediately outside the extended garden area on the remaining grass verge fronting Heath Road.

The means of enclosure would be a 900mm wooden picket fence.

**RELEVANT POLICIES:****National Policies (PPG & PPS)**

PPS1 - Delivering Sustainable Development

**Regional Spatial Strategy  
East of England Plan (May 2008)**

ENV7 - Quality in the Built Environment

**Bedfordshire Structure Plan 2011**

None

**South Bedfordshire Local Plan Review Policies**

BE8 - Design Considerations  
R12 - Recreation Open Space

**Supplementary Planning Guidance**

Central Bedfordshire Design Guide 2010

**Planning History**

CB/11/00519/FULL Change of use from amenity land to private garden.  
(Withdrawn)

**Representations:  
(Parish & Neighbours)**

Parish/Town Council	Not received to date.
Neighbours	2 Shenley Close 9/06/11 6 Sandy Lane 9/06/11 Sandy Lodge, Sandy Lane 10/06/11 Little Hallam, Heath Park Road 13/06/11 175 Cotefield Drive 15/06/11 Three Oaks, Sandy Lane 14/06/11 6 Copper Beach Way 14/06/11 6 Gig Lane 17/06/11 21 Sandy Lane 20/06/11 E-mailed Objection 23/06/11 Borderlands, Heath Park Road 21/06/11 Oaklands, Sandy Lane (26/06/11) 9 Chiltern Gardens (26/06/11) 4 Sandy Lane 27/06/11 Blair Drummond, Heath Park Road 28/06/11 36 Chiltern Garden 28/06/11 1 Wellington House, Leighton Road, Heath & Reach (1/07/11) (See comments in Determining Issues section below).

**Consultations/Publicity responses**

Trees & Landscape Officer (29/06/11)	No objection subject to compliance with agreed method statement for root protection during erection of fencing
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adjoining the lime tree.

Highways Officer  
(29/06/11)

No objection.

## **Determining Issues**

The main considerations of the application are:

1. Impact Upon the Character of the Street Scene
2. Precedent
3. Representations
4. Highways

## **Considerations**

### **1. Impact Upon the Character of the Street Scene**

Policy R12 of the South Bedfordshire Local Plan Review states that planning permission will not normally be given for the development of amenity space, but exceptions would be considered where the new use is essential for the improvement, enhancement or enlargement of an existing area and where only a small part would be lost. Thus, the development of amenity land such as that the subject of this application is in general terms considered unacceptable as it would negate the visual softening of the streetscene. However, it is acknowledged that there is an issue with regards to privacy of the occupiers of 2 Sandy Lane and Policy BE8 of the Local Plan Review acknowledges the need to limit opportunities for crime, whilst protecting the natural attractive aspect of a site and in so doing taking opportunities to enhance the character of the area. In support of their application the applicants state that the enclosure of the land would improve privacy, security and the layout of their garden. Photomontages have been submitted accordingly to demonstrate how the corner site could be enhanced.

The determination of this application should therefore be based on balancing the need to preserve amenity land against development, with any positive impact upon the residential amenity enjoyed by the applicants and any long term enhancement that could follow from the changed management of an area of amenity land. The enclosure would reduce the area of amenity land and thereby potentially reduce the visual amenity function of the land. Conversely the granting of this application would allow the potential garden land enhancement of a portion of the amenity land such that the important visual softening of the street scene would not necessarily be significantly reduced. The extra degree of privacy and security resulting from the enclosure of land and erection of a picket fence is less clear, other than for the addition of distance from the public domain area and an enhanced fencing arrangement. It could be argued that careful planting along the boundary of number 2 Sandy Lane would alleviate the perception of intrusion of passers-by and indeed, that this short fence and enclosure of amenity land would not eliminate the perception of overlooking.

### **2. Precedent**

Several representations received have mentioned that if permitted, this development would 'open the floodgates' to further enclosures of amenity land in the locale. It is noted however that in all the cases along Heath Road, the

enclosure of amenity would not be possible due to public footpaths which run adjacent to the properties in question. In the case of Sandy Lane, the footpath is situated well away from the bungalow and (together with the irregular shape of the plots of number 2 Sandy Lane and 299 Heath Road) this indicates that this area of land in front of number 2 could have been intended to be enclosed originally.

Each case for loss of amenity land must be examined on its merits of course, but in this case due to the unusual position of the footpath (not running adjacent with the dwelling frontages) and amenity land, we are satisfied that any permission to enclose a portion of land would not set a harmful precedent.

### **3. Representations**

Several objections have been received with regard to the proposed change of use, the main reasons for objection are listed and addressed below:

#### Precedent

Explained above.

#### Remove the use of the amenity from school children planting bulbs etc

The land surrounding the tree on the verge is used by local school children to plant bulbs. This portion of the land would not be enclosed.

#### Detriment to highway safety

The Highways Officer raises no objection to the development.

#### Removal of public use

It is correct that the land would no longer be in the public domain, however the public footpath, post box and road sign would be unaffected by the development.

#### Harmful to the character of the street scene

The low-level fencing and landscaping are not considered in their own right to have a detrimental impact upon the character of the area.

#### Existing covenant

Several letters state that there is an existing covenant on this land, however covenants are not a consideration in the determination of planning applications.

The existence of public opposition can be an important material consideration, and in this case the partial enclosure of this land is clearly considered by the above local residents to have a significant impact upon the way this land is currently enjoyed. Equally, the up-keep and landscaping of the enclosure could also be considered to be to the benefit of the public and character of the street scene as a whole.

### **4. Highways**

The Highways Officer does not raise any objections to the enclosure of amenity land.

### **5. Conclusion**

The need for the protection of privacy weighed up against policy and the impact of the enclosure of the land upon the character of the street scene is finely balanced. However, it is considered that there are no significant material

considerations in order to outweigh policy and there would be no significant enhancement to the character of the street as a result of this development.

**Recommendation**

That Planning Permission be REFUSED for the following reasons:

- 1 The enclosure of amenity land is considered to be harmful to the established character of the street scene and to the visual amenity of the locality and to the wider area. The development is therefore contrary to Policies R12 and BE8 of the South Bedfordshire Local Plan Review.

**DECISION**

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