

Item No. 14

APPLICATION NUMBER	CB/15/03320/FULL
LOCATION	238 Grasmere Way, Linslade, Leighton Buzzard, LU7 2QH
PROPOSAL	Change of use from amenity land to residential garden by enclosure of 2.2m wooden fence (part retrospective) - (Revision to previous application under reference CB/14/03082/FULL to incorporate a set back of the fence and gate from the pavement edge)
PARISH	Leighton-Linslade
WARD	Linslade
WARD COUNCILLORS	Cllrs Perham, Tubb & Walker
CASE OFFICER	Donna Lavender
DATE REGISTERED	03 September 2015
EXPIRY DATE	29 October 2015
APPLICANT	Mr & Mrs Lane
AGENT	PJPC Ltd
REASON FOR COMMITTEE TO DETERMINE	Called in by Ward Councillor Perham on grounds of detrimental impact on the landscape character of the area and highway concerns.
RECOMMENDED DECISION	Full Application - Recommended for Approval

Summary of Recommendation

The proposed development would provide for the reinstatement of an important piece of amenity land which provides a landscape buffer along the harsh edge of the built form whilst also providing for a means of access and additional residential garden space for the existing occupier without prejudicial impact on highway safety and adverse impact on the landscape character of the area in accordance with policies BE8 & R12 of the South Bedfordshire Local Plan Review, policies 22 & 43 of the emerging Development Strategy for Central Bedfordshire and the NPPF.

Site Location:

The application site consists of a two storey detached dwellinghouse located on a corner plot within Grasmere Way, Linslade. The site is flanked to the north by 236 Grasmere Way and to the west by a public footpath.

The Application:

Permission is sought to relocate an authorised 2.2 metre high fence which is currently enclosing a parcel of amenity land to the side of the application site. The fence is proposed to be repositioned approximately 2 metres away from the public highway and set back from the corner by some 5 metres as revised during the life of the application, enclosing only an area of land measuring approximately 32m² as opposed to that currently enclosed measuring 88m².

RELEVANT POLICIES:

National Planning Policy Framework (NPPF) (March 2012)

South Bedfordshire Local Plan Review Policies

BE8 Design Considerations
R12 Recreation Open Space
T10 Parking

(Having regard to the National Planning Policy Framework, the age of the plan and the general consistency with the NPPF, policies BE8 & R12 are still given significant weight. T10 is afforded less weight.)

Emerging Development Strategy for Central Bedfordshire 2014

Policy 22: Leisure and Open Space

Policy 27: Parking

Policy 43: High Quality Development

Policy 40: Other Areas of Open Land within Settlements

(The draft Development Strategy was submitted to the Secretary of State on the 24th October 2014. After initial hearing sessions in 2015 the Inspector concluded that the Council had not complied with the Duty to Cooperate. The Council has launched a judicial review against the Inspector's findings and has not withdrawn the Development Strategy. The first phase of the legal challenge took place at a hearing on 16th June 2015. This was to consider whether the court would grant the Council leave to have a Judicial Review application heard in the High Court. The Judge did not support the Council's case. On the 22nd June 2015 the Council lodged an appeal against his judgement. The status of the Development Strategy currently remains as a submitted plan that has not been withdrawn. Its policies are consistent with the NPPF. Its preparation is based on substantial evidence gathered over a number of years. It is therefore regarded by the Council as a sustainable strategy which was fit for submission to the Secretary of State. Accordingly it is considered that the emerging policies carry weight in this assessment.)

Supplementary Planning Guidance/Other Documents

1. Central Bedfordshire Design Guide (March 2014)

Relevant Planning History:

CB/14/03082/FULL - Change of use from amenity land to garden land by enclosure of 2.2m fence (Retrospective). Refused on 07/11/14 and appeal dismissed on 08/06/15.

SB/TP/74/1131A - Erection of 161 dwellings. Granted 17/09/74.

Consultees:

1. CBC Rights of Way Officer (11/09/15) - No Objection, ROW unaffected.
2. CBC Trees & Landscape Officer (28/09/15) - No Objection.
3. CBC Highways Officer (28/09/15) - No Objection, subject to the imposition of a condition.

Other Representations:

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| 1. 6 Grasmere Way
(18/09/15) - | Objects on the following grounds (in summary): <ul style="list-style-type: none">• Impact on adjacent footpath• Visibility concerns• Enclosure of amenity land |
| 2. 18 Stonebridge Road,
Aylesbury (18/09/15) - | Supports the application as enclosure prevents anti social behaviour and no negative impact in terms of appearance. |

Determining Issues

The main considerations of the application are;

1. **Principle of Development**
2. **Highway Considerations**
3. **Other Considerations**

Considerations

1. **Principle of Development**
 - 1.1 Policy R12 of the South Bedfordshire Local Plan Review and policy 22 of the emerging Development Strategy for Central Bedfordshire state 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. 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.
 - 1.2 A previous application was applied for and refused under reference CB/14/03082/FULL for the retrospective full enclosure of the amenity land to the side of the host dwellinghouse due to the amount of loss of amenity land which contributed to the original landscape scheme for the residential development permitted in 1974 and this decision was upheld at appeal. Further to the appeal decision Enforcement action was taken in August 2015 for the unlawful enclosure of the amenity land for the use for private residential garden space. The notice requires that all fencing used to enclose the land should be removed by November 2015. Options for a limited enclosure were explored with the applicant as a result of the refusal and enforcement action.
 - 1.3 The proposal herein was the result of these discussions and would result in the enclosure by fencing of a smaller portion of amenity land than is currently enclosed, retaining a substantial amount of view to important amenity along the edge and corner to be appreciated as an open area for those within the community and an important buffer along the harsh edge of the built form. Despite concerns raised by the local Ward Councillor and some local residents, it is considered that whilst the enclosure would reduce the area of amenity land and thereby potentially reduce the visual amenity function of the land, the retention of the remainder land on the corner being the most prominent and land

running along the proposed relocated fencing being the most beneficial section of land, would better contribute to provide a suitable amount of open land which would contribute to the amenity function within the locality. A condition would be imposed to ensure that some planting is introduced in a similar fashion to that present on other parcels of amenity land on the estate in the locality and which act as a buffer to the harsh edge of the built development. No objections have been raised to the proposal by the Councils Tree and Landscape Officer.

- 1.4 On this basis, on balance, it is considered that the proposal would conform with policies BE8 & R12 of the South Bedfordshire Local Plan Review and 22 & 43 of the emerging Development Strategy for Central Bedfordshire and the Central Bedfordshire Design Guide.

2. **Highway Considerations**

- 2.1 A number of objections have been received from local residents which have suggested that the position of the fence has resulted in visibility issues at the junction of Grasmere Way.
- 2.2 The Councils Highways Officer concluded with the previous application under reference CB/14/03082/FULL the affect of the fence on the highway network, specifically driver/driver intervisibility at the adjacent road junction, that there is no obstruction to driver/ driver intervisibility. Residential estates such as this are designed for a vehicle target speed of between 15 and 20 mph. Even when one considers the legal limit of 30mph, the adjacent junction can still provide visibility of 2.4m x 43m, in accordance with Manual for Streets.
- 2.3 The gate and fence is proposed to be set back away from the corner and public highway improving the current situation and as no objections were raised to the previous application in terms of visibility from the Highways Team, the improved siting of the fencing would not give rise to any visibility concerns.
- 2.4 The Highways Officer had noticed previously that the vehicular access to the garage to the rear of the property has and will continue with its relocation to be blocked by fencing, in effect the access has been closed. However this is likely due to the parking that is now provided to the front of the property. If vehicular access to the rear of the property was ever to be reinstated then the fence would require modification to provide pedestrian intervisibility splays and this is considered to be difficult to control. He therefore previously suggested if it's the applicants intention never to use this vehicle crossing to the rear of the property, then the dropped kerb should be raised and the footway reinstated at the applicants expense and this can be controlled by condition.
- 2.5 Furthermore, whilst we acknowledge that concerns have been expressed by residents about the impact of the enclosure on the public footpath that runs along the rear of the application site, there is no obstruction, unacceptable enclosure or impact on the visibility as a result of this development and no objections have been formally raised by the Councils Public Rights of Way Officer or Highway Officer and as such it is considered that the impact is negligible.

2.6 On this basis, it is considered that the application would conform with Policy T10 of the South Bedfordshire Local Plan Review, Policies 27 & 43 of the emerging Development Strategy for Central Bedfordshire and revised parking standards of the Central Bedfordshire Design Guide as amended Sept 2014.

3. Other Considerations

3.1 Human Rights issues

The proposal raises no Human Rights issues.

3.2 Equality Act 2010

The proposal raises no Equality issues.

Recommendation:

That Planning Permission be APPROVED subject to the following:

RECOMMENDED CONDITIONS

- 1 The development hereby permitted shall begin not later than three years from the date of this permission.

Reason: To comply with Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

- 2 Within 2 months from the date of this decision, the siting of the boundary fencing shall be pegged out on site and this siting agreed in writing by the Local Planning Authority. The boundary fencing shall be completed in accordance with the approved scheme within a further month and be thereafter retained.

Reason: To safeguard the appearance of the completed development and the visual amenities of the locality.
(Policies BE8 SBLPR and 43 DSCB)

- 3 Within six months of the date of this decision, the existing vehicular access within the frontage of the land to be developed, shall be closed in a manner to the Local Planning Authority's written approval. The closure shall be completed in accordance with the approved scheme before the use hereby permitted is commenced and be thereafter retained.

Reason: In the interest of road safety and to reduce the number of points at which traffic will enter and leave the public highway.
(Policies BE8 SBLPR and 43 DSCB)

- 4 Within the first planting season from the date of the decision, a landscaping scheme to include all hard and soft landscaping and a scheme for landscape maintenance for a period of five years following the implementation of the landscaping scheme shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented by the end of the first planting season immediately following the decision date of this application (a full planting season means the period from October to March). The trees, shrubs and grass shall subsequently be maintained in

accordance with the approved landscape maintenance scheme and any which die or are destroyed during this period shall be replaced during the next planting season.

Reason: To ensure an acceptable standard of landscaping.
(Policies BE8 SBLPR and 43 DSCB)

- 5 The development hereby permitted shall not be carried out except in complete accordance with the details shown on the submitted plans, numbers CBC/001 dated 21/09/15 & CBC/002 dated 03/09/15.

Reason: To identify the approved plans and to avoid doubt.

Notes to Applicant

1. In accordance with Article 35 (1) of the Town and Country Planning (Development Management Procedure) (England) Order 2015, the reason for any condition above relates to the Policies as referred to in the South Bedfordshire Local Plan Review (SBLPR) and the emerging Development Strategy for Central Bedfordshire (DSCB).
2. This permission relates only to that required under the Town & Country Planning Acts and does not include any consent or approval under any other enactment or under the Building Regulations. Any other consent or approval which is necessary must be obtained from the appropriate authority.
3. Please note that the unnumbered drawings submitted in connection with this application have been given unique numbers by the Local Planning Authority. The numbers can be sourced by examining the plans on the View a Planning Application pages of the Council's website www.centralbedfordshire.gov.uk.
4. The applicant is advised that the closure of the existing access shall include the reinstatement of the highway to include any footway, verge and kerbing. No works associated with the closure of the vehicular access should be carried out within the confines of the public highway without prior consent, in writing, of the Central Bedfordshire Council Highways Department. Upon receipt of this Notice of Planning Approval, the applicant is advised to seek approval from the Local Planning Authority for details of the proposed vehicular access junction in accordance with condition 1. Upon formal approval of details, the applicant is advised to contact Central Bedfordshire Council's Highway Help Desk, Tel 0300 300 8049 quoting the Planning Application number. This will enable the necessary consent and procedures under Section 184 of the Highways Act to be implemented. To fully discharge condition 1 the applicant should provide evidence to the Local Planning Authority that Bedfordshire Highways have undertaken the construction works in accordance with the approved plan, before the development is brought into use. The applicant will also be expected to bear all costs involved in closing the access.

Statement required by the Town and Country Planning (Development Management Procedure) (England) Order 2015 - Part 5, Article 35

The Council acted pro-actively through positive engagement with the applicant at the pre-application stage and during the determination process which led to improvements to the scheme. The Council has therefore acted pro-actively to secure a sustainable form of development in line with the requirements of the Framework (paragraphs 186 and 187) and in accordance with the Town and Country Planning (Development Management Procedure) (England) Order 2015.

DECISION

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