

# APP 09

Application Number: 12/01953/FUL

Other

Change of use from amenity land to garden and the repositioning of wooden fence and landscaping (resubmission of 11/02359/FUL)

AT 20 Roeburn Crescent, Emerson Valley, Milton Keynes

FOR Mrs Sandra Hearn

Target: 1st November 2012

Ward: Emerson Valley

Parish: Shenley Brook End & Tattenhoe  
PC

Report Author/Case Officer: James Kirkham

Contact Details: 01908 252039 james.kirkham@milton-keynes.gov.uk

Head of Team: Jackie Fox

Contact Details: 01908 252283 jackie.fox@milton-keynes.gov.uk

## 1.0 INTRODUCTION

*(A brief explanation of what the application is about)*

### 1.1 The Site

The application site is a detached property located on the corner of Roeburn Crescent and Sykes Croft in Emerson Valley. Details of the location of the site and its relationship to surrounding properties can be seen in the plans attached to this report.

### 1.2 The Proposal

The application seeks consent to enclose an area of amenity land to private garden. The land is located to the side of the property and runs adjacent to the pavement in Sykes Croft. The full width of the land has already been enclosed and is unauthorised development. The current proposal would relocate the fence leaving a gap of 1.5 metres between the fence of the garden and the footpath in Sykes Croft to allow for planting of cherry laurel. Details of the proposal as described above can be seen in the plans appended to this report.

## **2.0 RELEVANT POLICIES**

*(The most important policy considerations relating to this application)*

### **2.1 National and Regional Policy**

National Planning Policy Framework paragraphs:

- 14. Presumption in favour of sustainable development
- 58. Design

### **2.2 Local Policy**

Adopted Milton Keynes Local Plan 2001-2011

D1: Impact of the development proposals on locality

D2A: Urban Design Aspects of New Development

L2: Protection of public open space and existing facilities (and Appendix L2)

## **3.0 MAIN ISSUES**

*(The issues which have the greatest bearing on the decision)*

- 3.1 1. Whether the proposal would have an adverse impact on the character and appearance of the area. The proposal will leave adequate space for the provision of landscaping to mitigate the enclosure of the land and will not detrimentally impact on the character and appearance of the area.

## **4.0 RECOMMENDATION**

*(The decision that officers recommend to the Committee)*

- 4.1 It is recommended that planning permission be granted subject to the conditions set out at the end of this report.

## **5.0 CONSIDERATIONS**

*(An explanation of the main issues that have led to the officer Recommendation)*

- 5.1 Retrospective planning permission was refused for enclosure of the land under planning reference 11/02359/FUL. This only left 0.5 metres of land between the edge of the footpath and fence which was considered inadequate to provide suitable planting to offset the loss of amenity land and protect the character and appearance of the area. This decision was appealed by the applicant and was subsequently dismissed. The current application seeks to address these concerns and now includes a 1.5 metre wide area between the footpath and fence which would be planted with cherry laurel.
- 5.2 Policy L2 of the Local Plan states that in considering proposals involving the loss of amenity open space, the Council will take into account the criteria set out in Appendix L2 (Proposals for the change of use of amenity open space). Appendix L2 states that planning permission will only be granted for the change of use of amenity open space, including the incorporation of such areas into private garden land, if: 1) the land does not now or is unlikely in the future to fulfil a useful purpose in terms of its appearance, landscaping,

recreational use or wildlife value; 2) the loss of amenity open space would not set a precedent for other similar proposals which cumulatively would have an adverse effect on the locality; and 3) the continued maintenance of the land for public amenity purposes would be impractical or unduly onerous.

5.3 Policy D1 of the local plan states that planning permission will be reduced for development which would result in an unacceptable visual intrusion. Policy D2A states that development proposals will be refused where they fail to protect the character in townscape and landscape.

#### 5.4 **Character and Appearance**

The application property is located in an attractive residential area where areas of structural landscaping positively contribute to the character and appearance of the area and wider street scene. The site is located at the corner of Roeburn Crescent and Sykes Croft which make it prominent in its surrounding.

5.5 The landscape officer has been consulted and has raised no objection subject to conditioning the landscaping replacement. The proposed development will result in the loss of part of an area of structural landscaping which previously positively contributed to the appearance of the area. However the proposed 1.5 width of the new landscaping area between the footpath and fence is now considered to be sufficient distance to provide adequate planting and mitigate any adverse impact on the character and appearance of the area.

5.6 Whilst the proposal may set some precedent for other enclosures in the locality they would all have to be assessed on their own merits and need to provide adequate mitigation measures where required. Furthermore whilst the amenity land as a whole did provide a useful purpose in terms of visual amenity prior to its enclosure, it is not considered that the reduced width of this area of landscaping would significantly impact on the character and appearance of the area. Therefore overall the proposal is now not considered to be visual prominent or harm the appearance of the area and is considered to be compliant with policies D1, D2A and Appendix L2 of the Local Plan.

## 6.0 **CONDITIONS**

*(The conditions that need to be imposed on any planning permission for this development to ensure that the development is satisfactory. To meet legal requirements all conditions must be Necessary, Relevant, Enforceable, Precise and Reasonable )*

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason: To prevent the accumulation of planning permissions; to enable the Local Planning Authority to review the suitability of the development in the light of altered circumstances; and to comply with section 51 of the Planning and Compulsory Purchase Act 2004. (D11)

2. The fencing hereby permitted shall be brown or green stained close boarded fence and so be retained as such unless otherwise agreed in writing by the local planning authority.

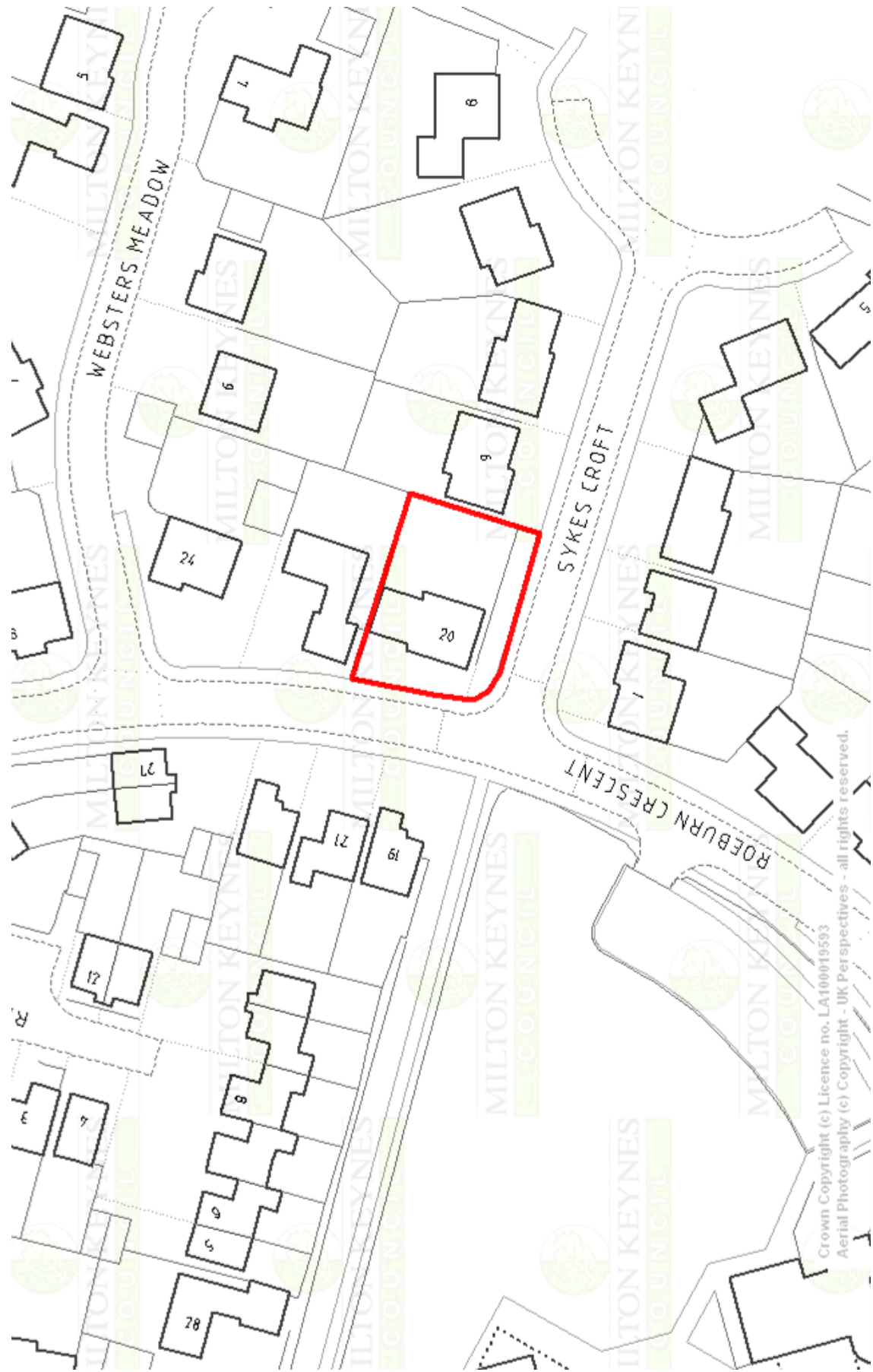
Reason: To protect the character and appearance of the area.

3. Within the first planting season following the erection of the fence and enclosure of the land hereby permitted, the landscape scheme as indicated on the approved plans of cherry laurel to the outside of the fence planted at 1 per 700mm spacing shall be fully planted. Any plants removed, dying, severely damaged or diseased within two years of planting shall be replaced in the next planting season with plant of such size and species as may be agreed by the Local Planning Authority.

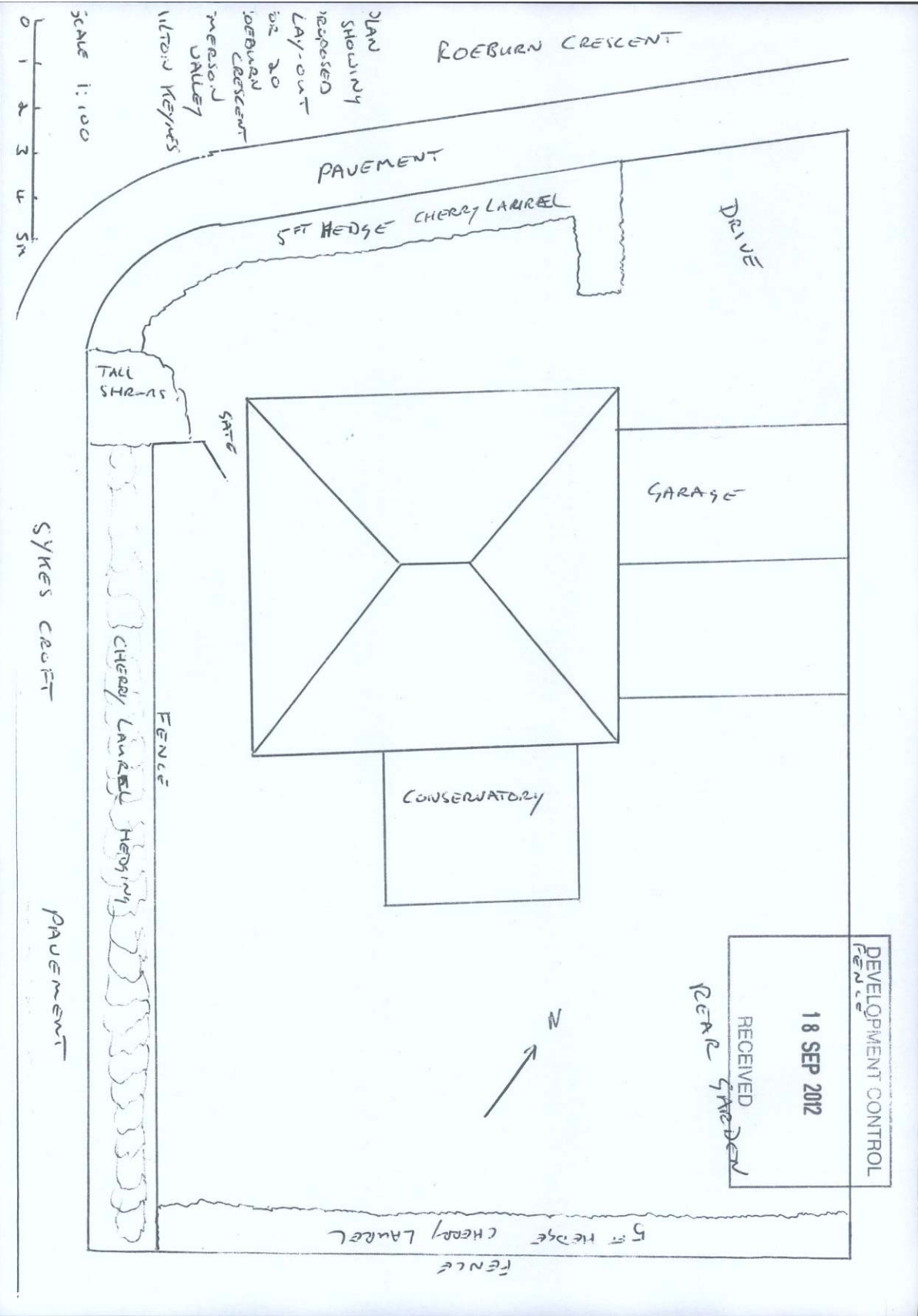
Reason: To protect the appearance and character of the area and to minimise the effect of development on the area.

4. Notwithstanding the details on the approved plans, the fence hereby permitted shall be located at least 1.5 metres from the closest edge of the footpath running adjacent to the southern boundary of the site.

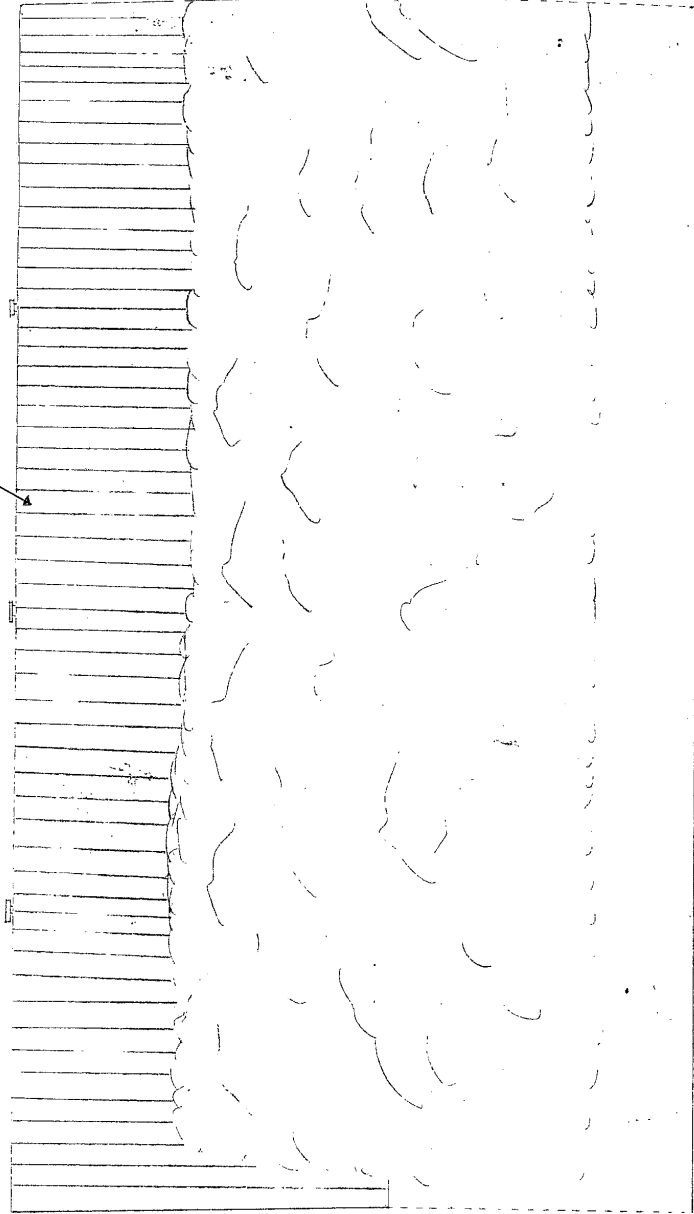
Reason: To ensure adequate distance is provided for planting to limit the impact on the character and appearance of the area.



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FEATHEREDGE BOARD FENCE



AREA IN FRONT OF FENCE 1.5 METRES LANDSCAPED WITH BUSHES

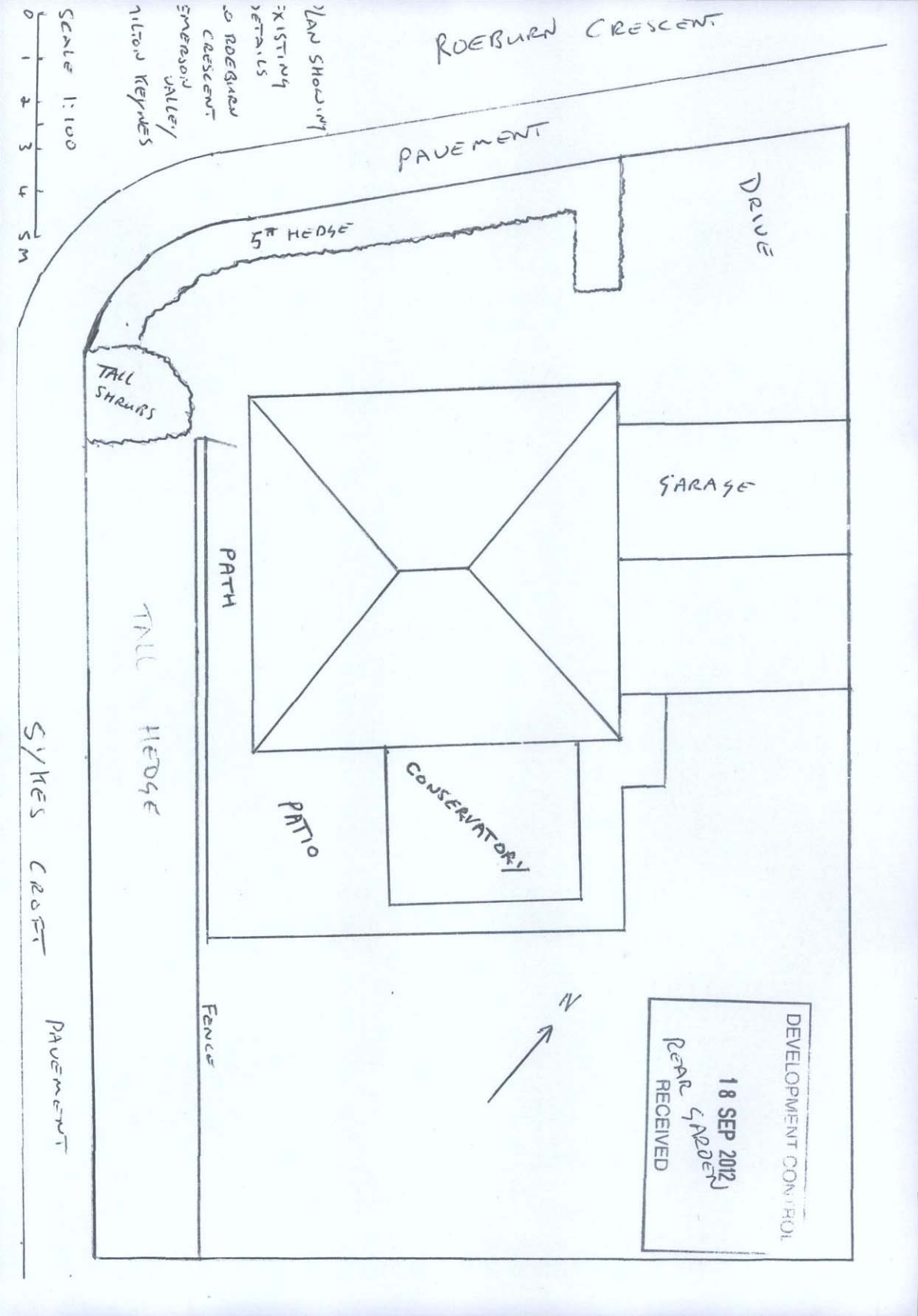
NORTH

SCALE 1:20



PATH

ELEVATION FACING SOUTH WEST  
 SHOWING TYPICAL PROPOSED FENCE DETAIL  
 AND HEDGE  
 20 ROEBURN CRESCENT EMERSON VALLEY  
 MILTON KEYNES





## **Appendix to 12/01953/FUL**

### **A1.0 RELEVANT PLANNING HISTORY**

*(A brief outline of previous planning decisions affecting the site – this may not include every planning application relating to this site, only those that have a bearing on this particular case)*

- A1.1 11/02359/FUL - Change of use from amenity land to garden and the repositioning of wooden fence and landscaping (retrospective) – Refused and appeal dismissed

### **A2.0 ADDITIONAL MATTERS**

*(Matters which were also considered in producing the Recommendation)*

- A2.1 The application site has been subject to a recent appeal and the inspector concluded the only reasons for dismissing the appeal were issues regarding character and appearance. The proposal is not considered to impact on the amenity of the neighbouring properties. Whilst the parish councils concerns regarding the visibility from the driveway to the east of the site are noted, the current application improves visibility from this driveway compared to the previously dismissed scheme. Furthermore prior to the enclosure visibility from this drive was already restricted by high planting.

### **A3.0 CONSULTATIONS AND REPRESENTATIONS**

*(Who has been consulted on the application and the responses received. The following are a brief description of the comments made. The full comments can be read via the Council's web site)*

#### **Comments**

#### **Officer Response**

#### **A3.1 Parish - Shenley Brook End & Tattenhoe**

The Council support the appeal decision and consider that MKC should take immediate enforcement action. The fence does not enhance the overall appearance of the area and gives restrictive view from neighbours reversing off the drive.

#### **A3.2 Senior Landscape Architect**

No objections. Proposals acceptable to locate the fence at 1.5 m from back edge of footpath. Planting of Cherry Laurel acceptable and plant at 1 per 700mm spacing.

Noted. See condition 3.

#### **A3.3 Local Residents**

The occupiers of the following properties were notified of the application:

19, 20 and 22 Roeburn Crescent, Emerson Valley  
1-4 (all) and 9 Sykes Croft, Emerson Valley

#### **A3.4 1 letter of support.** This has raised the following issues:

- The changes are only to the footprint of the shrubs however there will still be shrubs adjacent to the footpath. It will not appear different to the previous authorised situation. It will not affect the look or feeling of the road.

Noted



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## Appeal Decision

Site visit made on 1 August 2012

by **David Fitzsimon MRTPI**

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 10 August 2012

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**Appeal Ref: APP/Y0435/D/12/2177814**

**20 Roeburn Crescent, Emerson Valley, Milton Keynes, Bucks MK4 2DG**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mrs Sandra Hearn against the decision of Milton Keynes Council.
  - The application Ref 11/02359/FUL, dated 12 December 2011, was refused by notice dated 7 February 2012.
  - The development proposed is to remove overgrown hawthorn bushes, brambles etc and move original wooden fence nearer to pavement and planting of more manageable hedge.
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### Decision

1. The appeal is dismissed.

### Main Issue

2. The main issue in this case is the effect of the development undertaken on the character and appearance of the local area.

### Reasons

3. The appeal relates to a property located on the corner of Roeburn Crescent and Sykes Crescent. I understand that the fence which encloses the southern side boundary of the property was previously set a comfortable distance from the back edge of the pavement. The proposal before me seeks to retain this fence in an altered position, very close to the back of the pavement.
  4. The appeal property is located on a modern housing estate. Its southern boundary relates more to the Sykes Crescent street scene than that of Roeburn Crescent. This cul-de-sac is largely open plan, with frontages softened by low level landscaping.
  5. I appreciate that balancing the need for privacy for occupiers of corner properties on modern estates whilst maintaining a feeling of openness is challenging. Nevertheless, a common solution is to set the boundary treatment enclosing the rear of such properties a generous distance from the back edge of the pavement, softened by landscaping. I understand that this was the approach taken when the appeal property was built, and it is the approach taken for most of the corner properties within this estate from what I could see.
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6. The repositioning of the fence very close to the back edge of the pavement has resulted in it appearing overly prominent within the street scene. The result is a stark contrast to the open frontages of the majority of other properties within Sykes Crescent and it is incongruous. Given the position of the re-sited fence very close to the pavement, I am not satisfied that a landscaping scheme would adequately mitigate this adverse impact.
7. For the above reasons, I conclude that the re-sited fence has unacceptably harmed the character and appearance of the local area. In such terms, it conflicts with saved policies D1, D2A and L2 of the adopted Milton Keynes Local Plan.
8. In reaching my decision, I appreciate that the previous arrangement with a much thicker landscaped buffer may have required more maintenance. Nevertheless, I have seen nothing to convince me that it would have required materially greater levels of maintenance than the landscaped buffers which sit along the sides of several other corner properties within the estate. I am also mindful of the presence of a tall boundary fence at the neighbouring property on Roeburn Crescent which also sits close to the highway. I do not know, however, the precise planning circumstances behind this example. In any event, it is very much the exception rather than the rule, and I have considered the fence before me on its individual merits.
9. In light of the above factors, and having considered all other matters raised, the appeal does not succeed.

*David Fitzsimon*

INSPECTOR