

Application Number: 12/00768/FUL

**Change of use from amenity land to residential garden use and erection of a 2.5 metre high fence on boundary. Removal of old hedge and replanting of new trees and bushes. (Retrospective)**

**AT 3 Bakers Close, Stoke Goldington, Newport Pagnell**

**FOR Mr Andrew Neal**

**Target:** 28th May 2012

**Ward:** Sherington

**Parish:** Stoke Goldington Parish Council

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## **1.0 INTRODUCTION**

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

### **1.1 The Site**

The application property is a two storey detached property accessed from a private road. A playing field and village hall exists to the rear (north) of the site. 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 current application seeks retrospective consent to enclose an area of amenity land to the rear of the properties garden into part of the private garden of the application property. The area has been enclosed with a 1.8 metre high fence with 0.7 metres of trellis above. It is understood that the land previously consisted of a hedgerow and was enclosed in 1997. Full 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
- HE6: Conservation Areas (setting)
- 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 the impact on the character and appearance of the area. The area of land enclosed is screened by the village hall and is not visually prominent in the wider area.

## 4.0 RECOMMENDATION

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

- 4.1 It is recommended that planning permission be granted.

## 5.0 CONSIDERATIONS

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

- 5.1 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.
- 5.2 In the current application the area of land which has been enclosed formed part of the larger hedgerow between the playing fields and the properties in Bakers Close. This wider hedgerow does contribute to the visual amenity of the area. The area of land enclosed is approximately 2 metres deep by 12.5 metres wide and is located to the rear of the village hall adjacent to a service area containing a storage container and oil tank. The area enclosed is not visually prominent in the wider area due to being screened by the village hall building. It is therefore not considered to be a key element of the landscaping in the wider area. Whilst the larger hedgerow does provide visual amenity to

the area, given the siting of the application proposals it is not considered that the loss of this part of the landscaping and enclosure with a fence would significantly impact on the visual amenity of the area. It is therefore considered to be acceptable in this regard.

5.3 As noted in Appendix L2 it may be argued that the proposal would set a precedent for other properties (1, 2 and 4 Bakers Close) to undertake similar enclosures and removal of the hedgerow. However each application has to be assessed on its individual merits taking into account the relationship with the surrounding area. In this case given the limited visibility of the proposal in the wider area it considered to be acceptable however where proposed areas of land to be enclosed are more visible in the wider area, as other parts of the hedgerow in the local area are, they are more likely to be resisted due to the impact on the area. It is therefore not considered that the issue of precedent alone would justify refusal of the application.

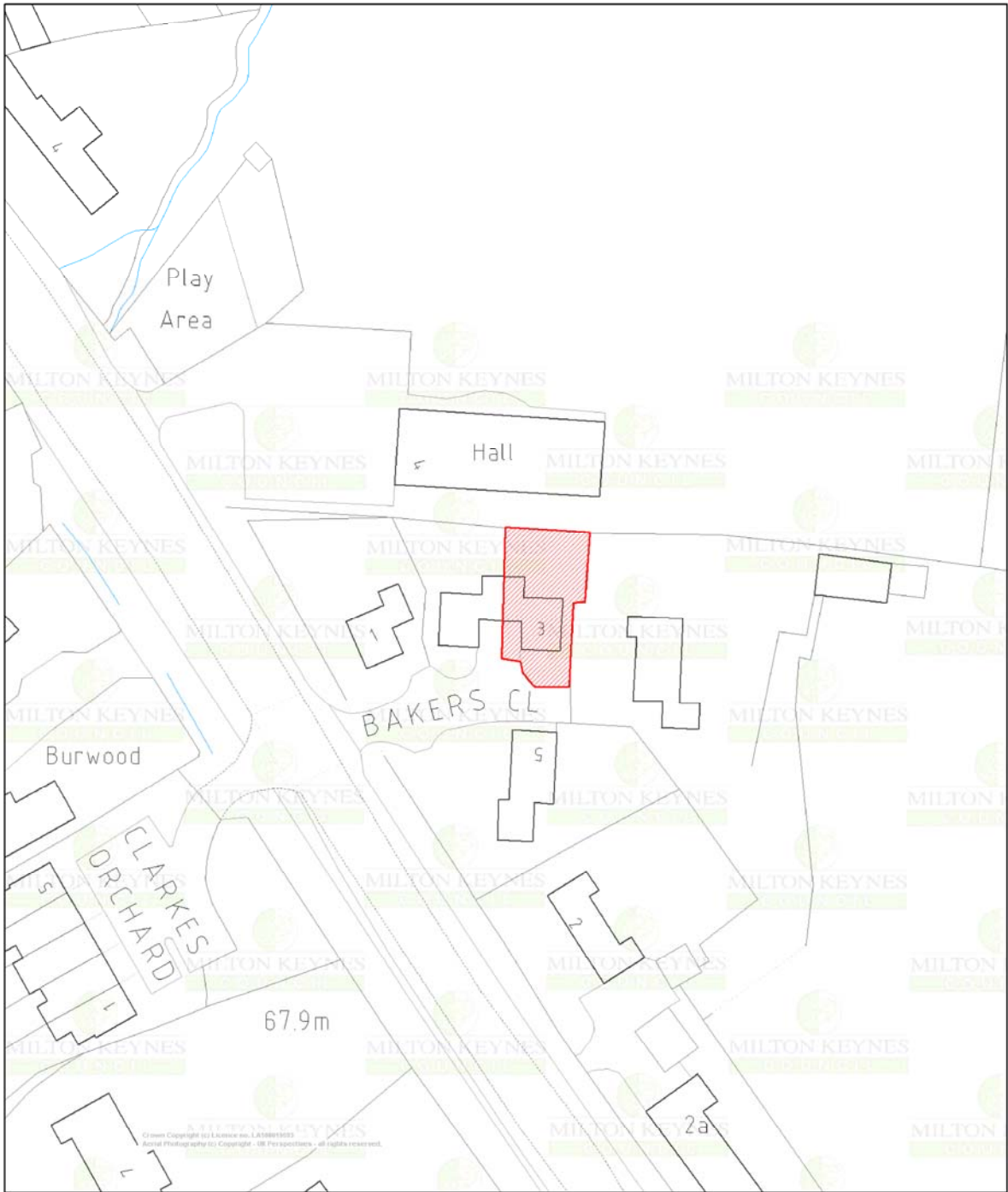
#### 5.4 **Conclusion**



Given the siting of the area of land that has been enclosed to the rear of the village hall and the limited visual impact of this individual enclosure on the wider area the proposal is considered to be acceptable and it is recommended planning permission be approved. It is not considered that the precedent issue justifies refusal.

#### 6.0 **CONDITIONS**

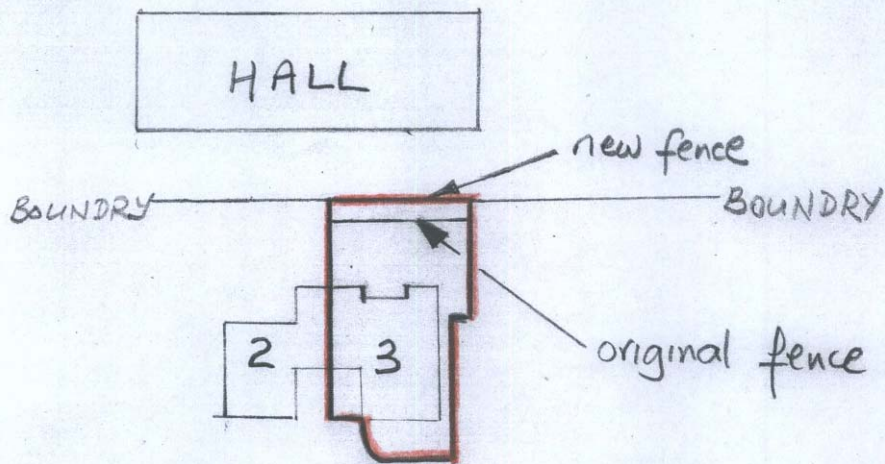
*(The conditions that need to be imposed on any planning permission for this development to ensure that the development is satisfactory. To meet legal requirements all conditions must be Necessary, Relevant, Enforceable, Precise and Reasonable )*

It is not considered that any conditions are required as the application is retrospective.



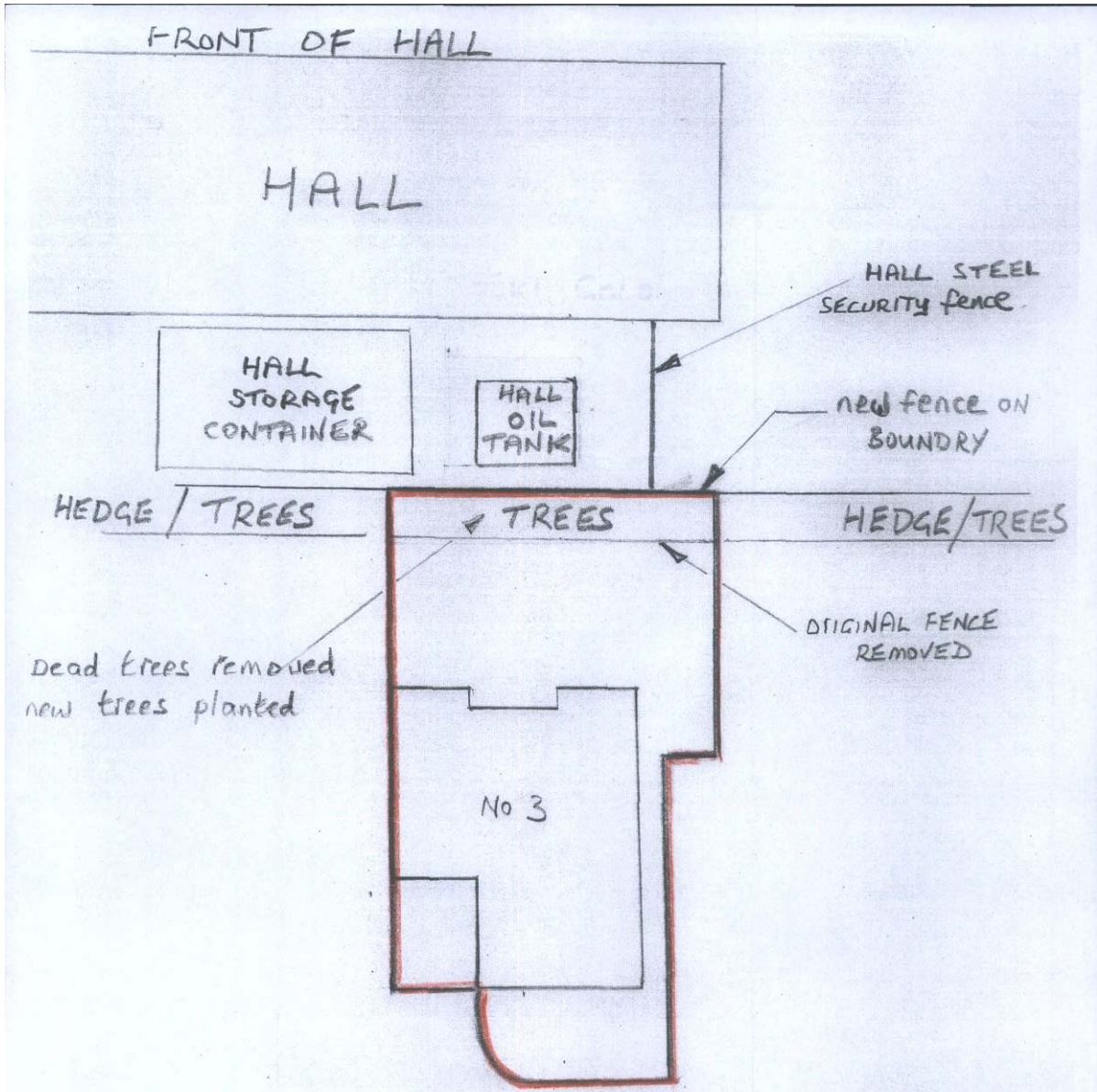
 	<p>Crown Copyright (C) Licence No. LA100019593 - 2008  Aerial Photography Copyright (C) Geospespectives - All rights reserved.</p>	<p>Scale 1/500  Centre = 483912 E 248501 N</p>	<p>Date 13/6/2012  Author:</p>
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3 BAKERS CLOSE STAKE COLDINGTON MK16 8NQ



BLOCK PLAN

Scale 1:500



Enlarged plan view scale 1:200

3 BAKERS CLOSE, STOKE GOLDINGTON MK168NQ

## Appendix to 12/00768/FUL

### 1.0 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)*

1.1 The most relevant planning history is:

MK/1223/81 – Erection of 5 houses and garages – Permitted

07/02167/FUL – Two storey rear extension – Permitted

09/01425/FUL – First floor rear extension – Permitted

### 2.0 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	Policy Reference
<b>2.1 Senior Landscape Architect</b>		
The enclosure interrupts the garden fence line and breaks the existing hedgerow with its removal. The fence is hidden from general view by the village hall so has little visual impact. However the hedge was removed and would set a strong precedent. There is no replacement planting to the outside of the fence.	See paragraph 5.3	Appendix L2 Policy D1(v)

#### Local Residents

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

15 Malting Close, Stoke Goldington  
2, 4 and 5 Bakers Close, Stoke Goldington  
Village Hall, 4 High Street, Stoke Goldington

**5 letters of objection and 1 letter of support have been received.** These have raised the following issues:

1. The land is not within the applicant ownership and has enclosed land that does not belong to them. The centre of the hedge is the boundary. Can planning permission be given for development when it appears that when the land was cleared
- Landownership issues are not material planning considerations. Retrospective applications have

and fence erected he did not own the land or have permission from the own.

to be considered in the same way as every other application and is not a reason to refuse an application

2. The hedgerow was conditioned to be retained as part of the original approval for the dwellings in Bakers Close. The hedgerow should be re-instated.

Noted. See paragraph 3.1

3. Permitting the application would set a precedent for other residents to do the same resulting in the complete loss of the hedgerow. The current location of the fence is obviously discontinuity in the boundary line unless the 3 other residents on Bakers Close were to extend their gardens. It is understood only 1 resident wishes to do this. Whilst the current property is located behind the village hall if the occupants of 1 and 4 Bakers Close decided to follow the precedent this would have a major detrimental impact on the area as a result of the remove of the hedge.

Noted. See D1, paragraph 5.3 Appendix L2

4. The hedge forms part of a larger hedgerow and is a significant visual feature in the local landscape. The hedge functions both as a boundary marker and visual feature in the landscape supporting the conservation area.

Noted. See D1, paragraph 5.2 and Appendix L2, HE6

5. Object to the parish councils handling of the process as outlined below. The applicant moved the fence and enclosed the land in 1997. It was raised in a Parish Council minutes in 2007. The boundary between the recreation ground and Bakers Close was indentified as the centre of the trees and the parish requested the fence be reinstated to the correct line in 2011. Following further disputes the parish council decided to use an existing wire fence within the hedge as the boundary and put in a new post a rail fence to define the boundary. Residents were told the

These are not planning considerations. They are matters between the parish and residents. See paragraph 3.2



Village Hall Committee would pay for this. A number of residents objected to this as it was wrong in principle and set a bad precedent and significant expense to the village.

6. Support the application. The landownership has been confirmed with the parish council and it confirms future liability of hedge and trees. 3 Baker Close will be applying to enclose the similar land to the rear of their property. Noted

### **3.0 ADDITIONAL MATTERS**

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

- 3.1 The original approval for the construction of dwellings in Bakers Close in 1981 did include a planning condition which stated that no trees or hedgerow should be cut back or removed without the prior written consent. The hedgerow has been removed against this condition however as noted above the impact on the removal of the fence is not considered to justify refusal given the relationship of the enclosure with the wider area. If it is considered that the proposal is acceptable then this permission would supersede the breach of condition. However if deemed to be unacceptable the Council would need to investigate any possible enforcement action to have the fence removed and hedge re-instated.
- 3.2 Land ownership issues and actions of the parish in dealing with the landownership issues and enclosure of the land are not material planning considerations which can be taken into account in determining the application.