

**Application Number:** 17/02419/FUL**Description** Change of use from private amenity land to residential garden, and erection of a 1.8 metre fence (part-retrospective)**AT** 4 Glendurgan Court, Westcroft, Milton Keynes, MK4 4GN**FOR** Mr Andrew Hall**Target:** 6th December 2017**Extension of Time:** No**Ward:** Tattenhoe**Parish:** Shenley Brook End & Tattenhoe PC**Report Author/Case Officer:** Sarah Watson  
Planning Officer**Contact Details:**

Sarah.Watson@milton-keynes.gov.uk

**Team Manager:** Sarah Hine - 01908 252283, Sarah.Hine@milton-keynes.gov.uk

## **1.0 RECOMMENDATION**

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

1.1 It is recommended that permission is granted subject to conditions set out in this report.

## **2.0 INTRODUCTION**

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

### **2.1 The Site**

The application site contains a detached two storey residential dwelling location on the north side of Glendurgan Court. To the north and east of the site are neighbouring properties, to the west is a public footpath with a neighbouring property beyond, and to the south is Glendurgan Court.

### **2.2 The Proposal**

This application seeks part proposed, part retrospective planning permission for the change of use of the adjacent private amenity land to residential garden, and the enclosure of this land with a 1.8 metre timber fence. Currently the fence is located up to the boundary with the adjacent public footpath.

Amended plans have been received which set the fence back from the footpath by 1.5m.

### **3.0 RELEVANT POLICIES**

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

#### **3.1 National Planning Policy**

National Planning Policy Framework (2012)  
Paragraph 17 - Core planning principles  
Section 7 - Requiring good design

#### **3.2 Local Planning Policy**

Milton Keynes Local Plan (2001-2011) (Saved Policies)  
D1 - Impact of Development Proposal on Locality  
D2A - Urban Design Aspects of New Development  
L2 - Protection of Public Open Space and Existing Facilities  
Appendix L2 - Proposals for the Change of Use of Amenity Open Space  
T15 - Parking Provision

Milton Keynes Core Strategy (2013)  
CS13 - Ensuring High Quality, Well Designed Places

New Residential Development Design Guide (2012) (Supplementary Planning Document)

Parking Standards (2016) (Supplementary Planning Document)

#### **3.3 Human Rights Act 1998**

There may be implications under Article 8 and Article 1 of the First Protocol regarding the right of respect for a person's private and family life and home, and to the peaceful enjoyment of possessions. However, these potential issues are in this case amply covered by consideration of the environmental impact of the application under the policies of the development plan and other relevant policy guidance.

#### **3.4 Equalities Act 2010**

Due regard, where relevant, has been had to the Milton Keynes Council's equality duty as contained within the Equalities Act 2010.

### **4.0 MAIN ISSUES**

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

Principle of development  
Impact on residential amenity  
Design and resulting impact on character of the area  
Impact on highway safety

## **5.0 CONSIDERATIONS**

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

### **5.1 Principle of Development**

Saved Policy L2 of the Milton Keynes Local Plan (2001-2011) 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. Appendix L2 states that "planning permission will only be granted for the change of use of open amenity 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.
3. The continued maintenance of the land for public amenity purposes would be impractical or unduly onerous.

In certain cases, the loss of amenity open space may be acceptable if it is adequately compensated by proposals for improvements to the quality of landscaping and appearance of amenity space elsewhere in the locality."

### **5.2 Impact on Residential Amenity**

Saved Policy D1 (iii) of the Milton Keynes Local Plan (2001-2011) states that planning permission will be refused if the development would be harmful in that it would cause "an unacceptable visual intrusion or loss of privacy, sunlight and daylight."

The fence is located adjacent to the public footpath and the on plot parking for no. 9 Bridgemere Close, as such it does not cause an unacceptable visual intrusion or loss of daylight to the neighbouring properties.

### **5.3 Design and Resulting Impact on Character of the Area**

Saved Policy D2A of the Milton Keynes Local Plan (2001-2011) states that development proposals will be refused unless they are able to protect the "character in town and landscape" and "continuity of street frontage and enclosure of space."

The local area is residential and is characterised by terraced rows and large detached dwellings. The private amenity land is an area of grassed land along 12.8 metres (approx.) of the adjacent public footpath, which leads from Glendurgan Court to Bridgemere Close. The northernmost area of the land is planted with trees and shrubs. To the south west of the footpath is a planted strip of private amenity land 2.1 metres (approx.) in width, in ownership of no. 6 Glendurgan Court. The side elevation of the application dwelling and existing boundary wall are set back from the footpath between 1.8 metres and 7.8 metres.

The footpath connects two cul-de-sacs and is considered to not be significant within the local area. The footpath cannot be seen from the main road of Exbury Lane or the wider local area. Within the immediate street scene of the cul-de-sac of Glendurgan Court, the area of amenity land provided a degree of soft landscaping which had some contribution

to the character of the area. Glendurgan Court is characterised by small private front gardens, the development has not resulted in the loss of the front garden of the application site and therefore provides continuity of the street frontage.

The enclosure of this area of land has altered the immediate character of the footpath. However subject to the relocation of the fence as shown on the amended plans, it has not and would not have a significant visual impact or adverse effect on the locality to warrant refusal of this application.

A condition is recommended for time of implementation of the submitted revised plans in terms of relocation of the fence back 1.5m from the edge of the footpath .

#### 5.4 Impact on Highway Safety

Highways Development Control have not provided formal comment on this application but have noted that it is best practice to provide at least a 1m gap between the footpath and the fence (which has been done in this instance).

#### Other Relevant Considerations

Concerns were raised by third parties regarding safety due to the erection of the fence adjacent to the footpath are outlined in A3.1 of this report.

The footpath can still be seen from the first and second floor of the application dwelling and no. 6 Glendurgan Court which allows for the continued natural surveillance. The revised plans have reduced the height of the fence to 1.8m, and it is set back from the path boundary by 1.5m. The existing trees will remain on the outside of the fence as a result.

### **6.0 CONCLUSIONS**

In conclusion the application is considered to be acceptable.

### **7.0 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 begin 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 91 of the Town and Country Planning Act 1990.

2. Notwithstanding the approved drawings, no development shall take place above slab level until full details of both hard and soft landscape works have been submitted to and approved in writing by the local planning authority.

These details shall include existing trees and/or hedgerows to be retained and/or removed accurately shown with root protection areas; existing and proposed finished levels or contours; means of enclosure; visibility splays; areas of hard surfacing materials; proximity between street lights and tree planting; pedestrian access and circulation areas; civic space / public park furniture, play equipment, bins etc.; proposed and existing functional services above and below ground such as cables, pipelines, substations. Soft landscape works shall include planting plans at a minimum scale of 1:200 with schedules of plants noting species, plant supply sizes and proposed densities; written specifications (including cultivation and other operations associated with tree, plant and grass establishment; and the implementation programme.

Development shall be carried out in accordance with the approved details. If within a period of two years from the date of the planting of any tree or shrub, that tree or shrub, or any tree and shrub planted in replacement for it, is removed, uprooted or destroyed, dies, becomes severely damaged or diseased, shall be replaced in the next planting season with trees and shrubs of equivalent size, species and quantity.

All hard and soft landscape works shall be carried out prior to the occupation of the building(s) or the completion of the development whichever is the sooner or in accordance with a programme agreed in writing with the Local Planning Authority.

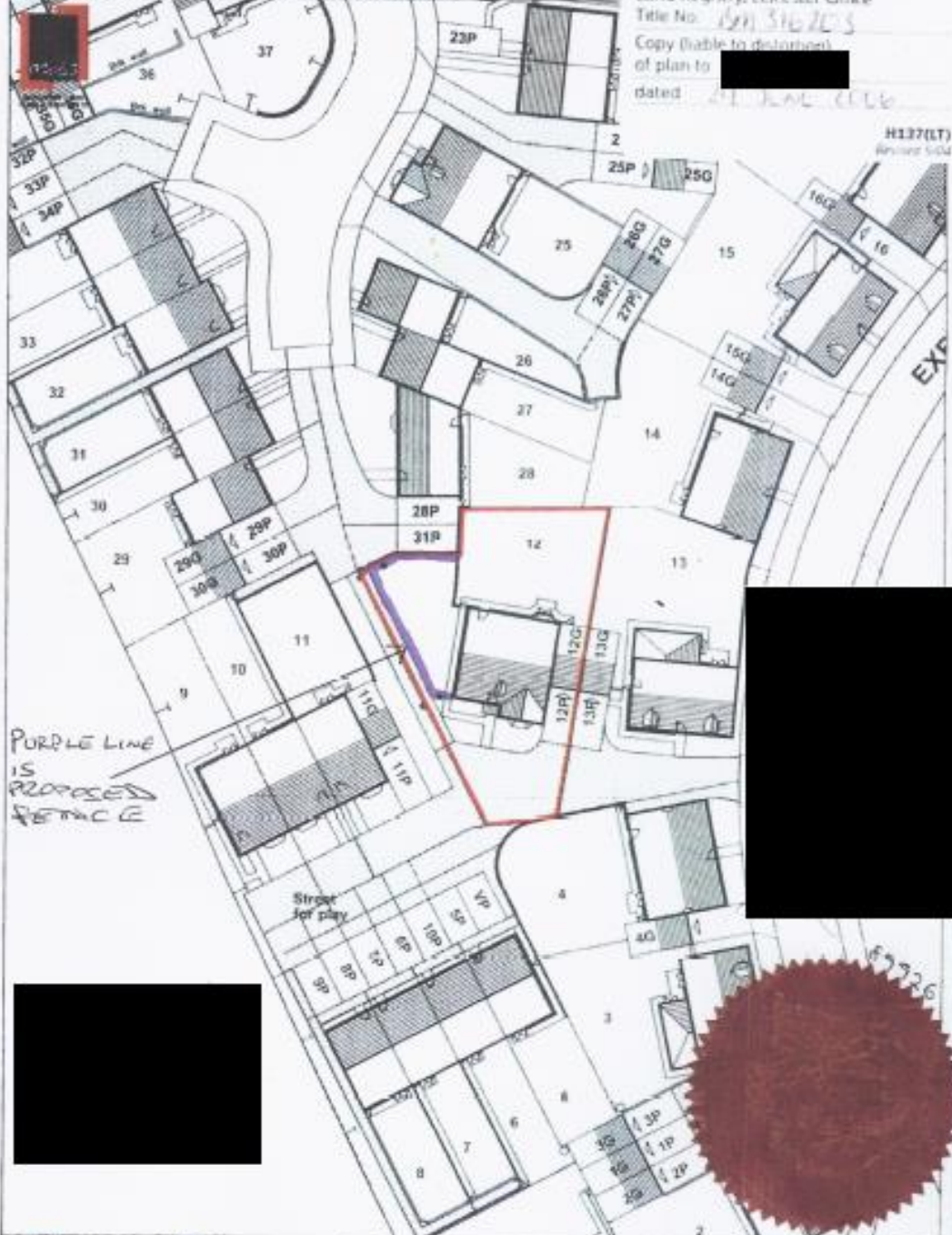
Reason: To protect significant trees and hedgerows, safeguarding the character of the area and preserving habitat and to minimise the effect of development on the area in accordance with Policies CS13 and CS19 of the Milton Keynes Core Strategy 2013 and Saved Policy D1 of the Milton Keynes Local Plan 2001-2011.

3. Within 2 months of the date of this permission, the current fence should be removed and only relocated to a position and specification which is in accordance with the approved plans.

Reason: To prevent harm being caused to the amenity of the area and on the amenity of adjoining residential occupiers in accordance with Policy CS13 of the Milton Keynes Core Strategy 2013 and Saved Policy D1 of the Milton Keynes Local Plan 2001-2011.

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PURPLE LINE  
IS  
PROPOSED  
FENCE

DEMISED LAND	LEASEHOLD GARAGE	MANAGEMENT AREA (1)	VISITOR PARKING	GARDEN ACCESS WAYS
ACCESS UNDER	SEWER EASEMENT	MANAGEMENT AREA (2)	STREET LIGHTING	BIN & RUBBISH COLLECTION POINT (NOT MANAGED) AND
- - - - - PLOT BOUNDARY RESPONSIBILITY				

**Plot 12**  
WESTCROFT, MILTON KEYNES  
Scale 1:500 @ A4

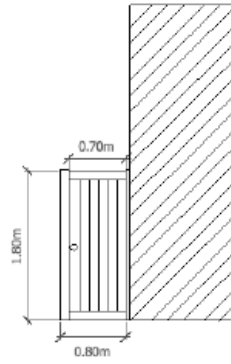
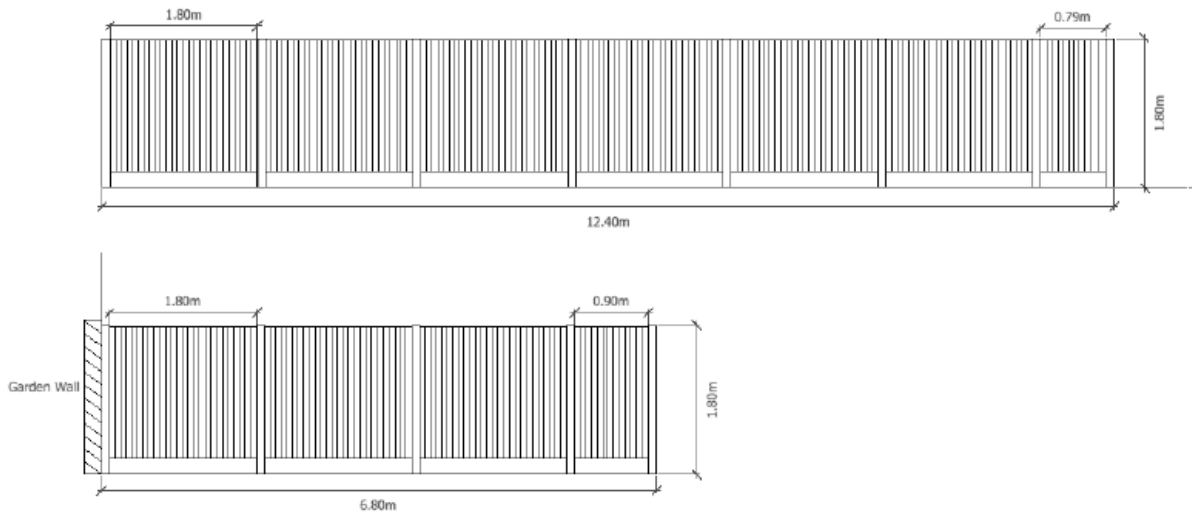


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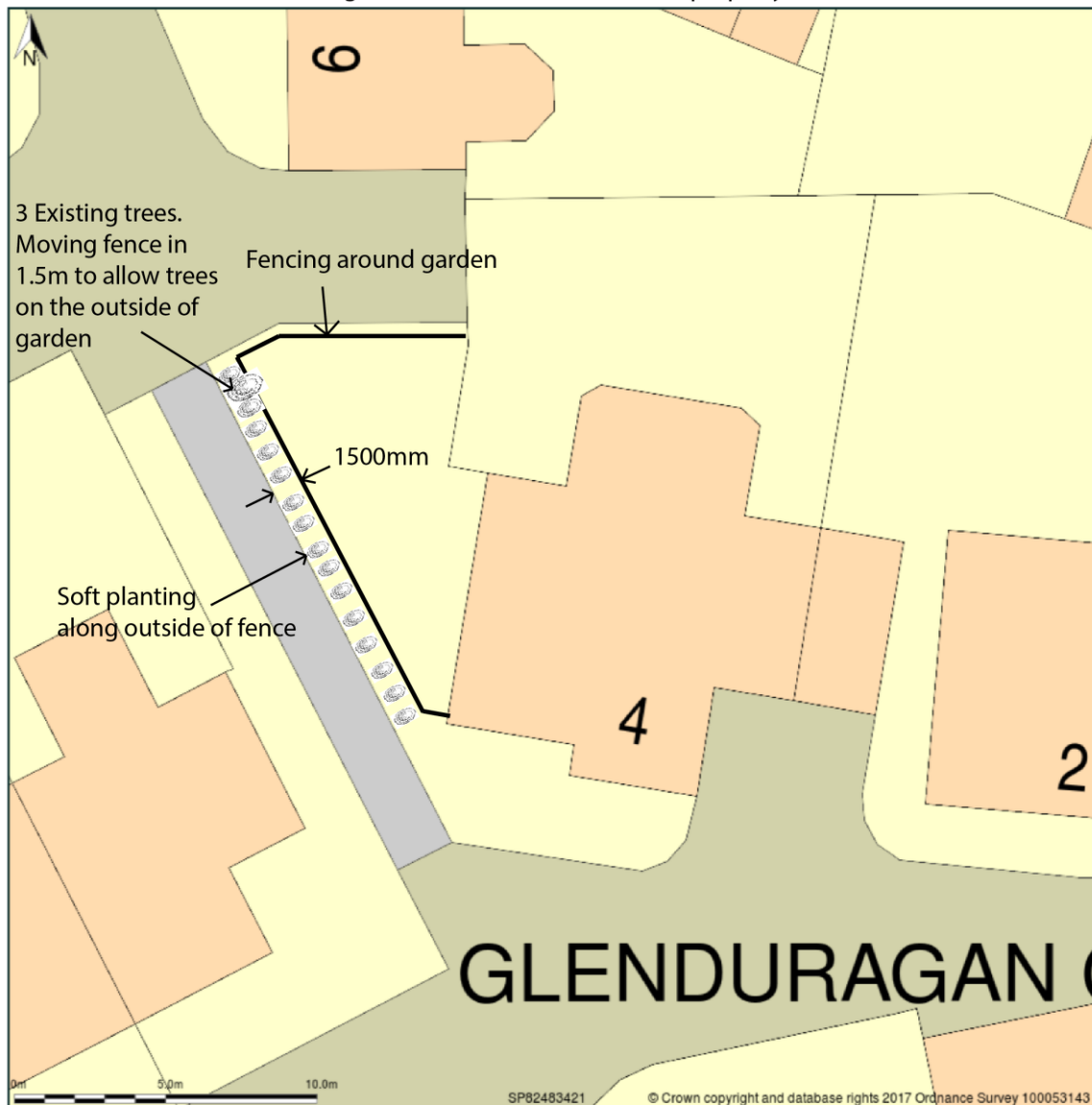
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4 Glendurgan Court, Westcroft, Milton Keynes, MK14 4GN
Erection of fence to side of property
Scale: 1:80

4 Glenduragan Court Westcroft Milton Keynes MK4 4GN

Plan drawing for erection of fence to side of property





## **Appendix to 17/02419/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)*

None

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

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

None

### **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)*

#### **A3.1**

10 neighbours were consulted.

4 comments received:

Proposal will create 'rat-run'

Proposal will increase anti-social behaviour

The erection of the fence on the pathway has left a dark alleyway.

Fence should be moved back at least 1m from the path boundary in order to leave room for the proposed hedge. The fence line will need to be moved 1m to accommodate the hedge a further movement of 50cm.

The fence has created an unsecure alleyway that is poorly lit - additional lighting should be added.

In principle the fencing is of a good quality and doesn't have too much of an adverse impact. However, it is not finished adequately. Needs to be completed to a good standard.

The plans look like the boundary encroaches onto allocated parking - can it be ensured that this doesn't happen.

(The comments are dealt with in sections 5.2 and 5.3)

Highways Development Control

It is best to provide at least a 1m gap between the footpath and the fence which has been done. This provides access for maintenance and reduces tunnelling and allows for landscaping. In this case the footpath is not highway but it is still good practice to provide the separation.

(these comments are dealt with in section 5.4)

Cllr - E Bald

I am a ward cllr for this area.

The resident has enclosed land classified as amenity land. This land was classified in this way to prevent its enclosure. It created an open space along the pathway between Bridgmere Close and Glendurgan Court, making it a safer place for pedestrians using the path. The enclosure has removed this protection and is contrary to current planning policy guidance.

Current planning policy D2 and NPPF para 58 and Core Strategy CS18 require safe environments. The enclosure has made the pathway unsafe and a potential unobserved area for anti social behaviour.

In addition "Safer Places" page 16 states that where segregated footpaths are required they should be as straight as possible and wide, avoiding potential hiding places. They should also be overlooked by surrounding buildings and activities. The enclosure has created a dark alleyway which breaks this code.

(these comments are dealt with in section 5.3)

Shenley Brook End and Tattenhoe Parish Council - 'Object - Land grab'

Ward - Tattenhoe - Cllr Morla

Can I please request you to take this to the committee on the policy of "L2 character of the area".

The relevant policy in the Milton Keynes Local Plan (2001-2011) is Saved Policy is L2 (and appendix L2 referred to in this policy). Within the supporting text for Saved Policy L2, amenity open space "includes privately owned areas to which there may be no public access."

There is dark alley way created which is left wide enough for people to walk, there is no place for hedging.

The MK planning Standard of 'Secured by design' also applies as the alley way is not visible from the houses around so Crime can increased as we are already dealing with great deal of crime in surrounding area.

(these comments are dealt with in sections 5.1 and 5.3)

Ward - Tattenhoe - Cllr Brown - no comments

Ward - Tattenhoe - Cllr Small - no comments