
F/YR22/0565/O

Applicant: Mrs L Fountain

**Agent : Mr Nigel Lowe
Peter Humphrey Associates Ltd**

Land To The West Of 167, Gaul Road, March, Cambridgeshire

Erect up to 2 dwellings (outline with matters committed in respect of access)

Officer recommendation: Refuse

Reason for Committee: Number of representations received contrary to Officer recommendation

1 EXECUTIVE SUMMARY

- 1.1 The site is well related to the primary market town of March to which new development should be directed as set out in the settlement hierarchy of policy LP3 of the Fenland Local Plan. It also provides an access which would be suitable subject to conditions had the recommendation been for approval. However, the site lies within flood zone 3 which is land as the greatest risk of flooding. No evidence has been submitted as to why this site should be developed as sequentially no other more suitable land at less risk of flooding is available. As such the proposal fails the sequential test and is in conflict with policy LP14, Part B of the Fenland Local Plan, policy H2(c) of the March Neighbourhood Plan, paragraph 167 of the NPPF and guidance on the Sequential approach to flood risk set out in the NPPG, which seek to direct development first to areas at lowest risk of flooding.
- 1.2 The development has a poor visual relationship to the local area due to its separation and isolation from the built edge of March and appears randomly placed. This results in an incongruous form of development contrary to policy LP16(d) of the Local Plan and paragraph 130 of the NPPF.
- 1.3 Therefore, the application is recommended for refusal for this reason.

2 SITE DESCRIPTION

- 2.1 The site is part of a larger area of open scrub land and is situated approximately 40 metres to the west of the nearest dwellinghouse, 167 Gaul Road. The site measures approximately 25.5 metres wide x 22.5 metres deep and has an area of approximately 0.06 hectares. The site fronts onto Gaul Road and is served by an existing footpath cycleway which is separated from the road by a small grass verge. The residential development to the west (of which No. 167 is a part) was originally approved in 2009 with amendments since then. This development stops abruptly where it adjoins the wider land in which this current application site is located.

- 2.2 To the west of the site is a run of overhead electricity power cables mounted on pylons. The site lies wholly within Flood Zone 3 which is the area at greatest risk of flooding.

3 PROPOSAL

- 3.1 This is an outline application with all detailed matters reserved for future consideration except for access which would be provided to the eastern side of the site direct off Gaul Road. An indicative site layout shows that it would serve a parking area of four spaces, two for each dwelling and would provide a continued access to the field at the rear. The indicative plans show that the dwellings would be two storey and semidetached but this is not being considered as part of this application.

Full plans and associated documents for this application can be found at:

4 SITE PLANNING HISTORY

F/YR13/0283/F – 3 storey dwelling refused 31.07.2013 (unsustainable location and flood risk)

F/YR15/0991/O – 90 dwellings on wider site refused 28.06.2016 (flood risk)

Historic maps show that there were buildings in the location of this application site, at least up to the 1980s. However, the buildings are no longer present and have been demolished. That there were buildings on site historically does not carry weight towards approving the application because they are gone.

5 CONSULTATIONS

- 5.1 **March Town Council** – Recommend approval (no reasons)
- 5.2 **CCC Highway Authority** – No objections subject to the access being splayed to enable ease of access from the highway given 40mph speed limit.
- 5.3 **Environment Agency** – No objections as the main source for potential flooding are drains within the control of the IDB. It is for the LPA to determine if the sequential test is passed. Section 162 of the NPPF states that development should not be permitted where there are reasonably available sites in areas at lower risk of flooding.
- 5.4 **FDC Environmental Health** – No objections subject to imposition of unexpected contamination condition
- 5.5 **Middle Level Commissioners**- No response received
- 5.6 **Local Residents/Interested Parties**

16 letters have been received in support of the application (eight from residents of Gaul Road, two from Damson Drive, one each from Ellingham Avenue, Burnet Gardens, Eastwood Avenue and Millfield Close, all in March, as well as from residents of Benwick and Ramsey Heights), for the following reasons as summarised;

- There was once a house on this site and it would be good to see two new houses in a fantastic location
- More family homes on Gaul Road would enhance the area
- It would be a shame to see this land get overgrown again and uncared for
- It is close to the town centre and has a new footpath with street lighting that goes straight to the town centre
- There is a lack of self-build plots in the area
- This will offer jobs to local people in the building trade
- Will provide the town with much needed housing
- The access/visibility is good and there is a speed limit in place
- Close to primary school
- In keeping with new properties next to it
- Completing development out to the bypass is long overdue

6 STATUTORY DUTY

- 6.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires a planning application to be determined in accordance with the Development Plan unless material planning considerations indicate otherwise. The Development Plan for the purposes of this application comprises the adopted Fenland Local Plan (2014).

7 POLICY FRAMEWORK

7.1 National Planning Policy Framework (NPPF)

Paragraph 11 – approving developments that accord with an up-to-date development plan without delay

Paragraph 12 – Presumption of favour of sustainable development does not alter statutory status of development plan as starting point for determination of applications

Paragraph 162 – Sequential test and aim to direct development first to areas at lower risk of flooding

Paragraph 163 – Exceptions test – where it is not possible to locate development at areas of lower risk of flooding

7.2 National Planning Practice Guidance

Flood Risk and Coastal Challenge sequential approach

7.3 Fenland Local Plan 2014

LP1 – A Presumption in Favour of Sustainable Development

LP2 – Facilitating Health and Wellbeing of Fenland Residents

LP3 – Spatial Strategy, the Settlement Hierarchy and the Countryside

LP4 – Housing

LP5 – Meeting Housing Need

LP9 – March

LP14 – Responding to Climate Change and Managing the Risk of Flooding in Fenland

LP15 – Facilitating the Creation of a More Sustainable Transport Network in Fenland

LP16 – Delivering and Protecting High Quality Environments across the District

7.4 March Neighbourhood Plan 2017

H2 – Windfall Development

8 KEY ISSUES

- **Principle of Development**
- **Flood Risk**
- **Access and highway safety**
- **Other**

9 ASSESSMENT

Principle of Development

- 9.1 Policy LP3 of Fenland Local Plan (the local plan) contains the spatial strategy and settlement hierarchy for the district. March is a primary market town (along with Wisbech) and other market towns are Chatteris and Whittlesey. The majority of the district's new housing and other growth should take place in these settlements.
- 9.2 Whilst this site lies beyond the built edge of March in regard to development to the east and to the north of Gaul Road, it is noted that the site is opposite the strategic allocation for West March whereby this land is allocated for up to 2000 new dwellings in policy LP9 of the Local Plan. The site is separated from 167 Gaul Road by a gap of approximately 40 metres. It is likely that had the site been allocated in the local plan, a more comprehensive development proposal would have come forward which would join the existing development. However, it is not reasonable to suggest the site is not well related to March and it is considered that in terms of its relationship to the town centre and distance to services and schools, the site is considered to be in a sustainable location (except for flood risk which is considered separately below).
- 9.3 Historical maps show that the site was previously occupied by buildings. Supporters of the application consider that as there was previously a dwelling at the site, then new dwellings should be acceptable. However, the previous building has been demolished and the site has blended into the landscape. It is considered that the site does not constitute previously developed land for this reason (and as set out in the glossary to the NPPF). Policy LP12 of the local plan refers to replacement dwellings on land outside the developed footprint of a settlement and for a development to be considered a replacement dwelling, the residential use of the originally dwelling must not be abandoned. In this case, the residential use has long since been abandoned and it is considered that no weight can be attached to the fact that a dwelling or building once stood on the site.
- 9.4 The site is well related to March and in terms of position/location in relation to the town centre and services would be acceptable and accord with the settlement hierarchy set out in policy LP3

Flood Risk

- 9.5 Policy LP14 Part B of the local plan states that the granting or refusing of planning permission will be informed by local and regional flood risk studies and guidance which are set out in the policy and any national advice in force at the time. All development proposals should adopt a sequential approach to flood risk from all forms of flooding. Development in areas known to be at risk of flooding will only be permitted following the successful completion of a sequential test

where necessary and an except test if necessary; through suitable demonstration of meeting an identified need and through the submission of a site-specific flood risk assessment.

- 9.6 Policy H2 (c) of the March Neighbourhood Plan states that windfall development will only be acceptable where the site is at a low risk of flooding i.e. not within flood zones 2 or 3.
- 9.7 Paragraph 167 of the NPPF states that development should only be allowed in areas at higher risk of flooding where if necessary the sequential test and exceptions test have been met and then only where the proposal meets site specific criteria/standards.
- 9.8 The National Planning Practice Guidance sets out when the sequential test should be applied and by who. It states “It is for local planning authorities, taking advice from the Environment Agency as appropriate, to consider the extent to which Sequential Test considerations have been satisfied, taking into account the particular circumstances in any given case. The developer should justify with evidence to the local planning authority what area of search has been used when making the application. Ultimately the local planning authority needs to be satisfied in all cases that the proposed development would be safe and not lead to increased flood risk elsewhere.”
- 9.9 The site lies within flood zone 3 which is an area at greatest risk of flooding. The proposal is not minor development in terms of applying the sequential test, therefore it must be applied to assess if the development could be directed to areas at lower risk of flooding. The applicant has provided no evidence to demonstrate that any search for areas at lower risk of flooding was made prior to making the application. There is a large strategic allocation immediately to the south of the site which is in an area at lower risk of flooding. There will be smaller sites available within March which are at a lower risk of flooding. As such, the sequential test is not passed.
- 9.10 The exceptions test need only be applied if the development passes the sequential test and no areas at less risk of flooding can be found. In this instance the development has not passed the sequential test. However, for information, it is considered that the proposal would not have passed the exceptions test as the development does not bring wider community benefits. It proposes market housing, and the local authority can demonstrate a 6.69 year housing land supply (report September 2021) and a Housing Delivery Target of 95% as of January 2022. Therefore, the proposed development is not meeting an identified need as that need is being met elsewhere.
- 9.11 Although the Environment Agency has not objected, they point out the responsibility for determining if a site meets the sequential test, rests with the local planning authority.
- 9.12 The development is therefore contrary to policy LP14, Part B of the Fenland Local Plan, the Cambridgeshire Flood and Water SPD, policy H2(c) of the March Neighbourhood Plan, paragraph 167 of the NPPF and guidance on the Sequential approach to flood risk set out in the NPPG.

Access and Highway safety

- 9.13 Access is being considered in detail as part of this application. The point of access is shown on the submitted location plan and on the indicative site plan. The application does not include further detailed design of the access, but it is considered that the position of the access is clear and that if the application were being recommended for approval, detailed design could be conditioned.
- 9.14 The indicative site plan shows that the site is capable of providing two parking spaces per dwelling which would be adequate for dwellings of up to 3 bedrooms in size. It must, however, be reiterated that detailed design and layout is not being considered as part of this proposal. Nevertheless, the potential of the site to accommodate and meet the needs of future occupiers should be considered at this stage.
- 9.15 The local highway authority has raised no objection subject to conditions being imposed regarding design of the access. As such the proposal complies with policy LP 15, Part C of the Local Plan.

Appearance

- 9.16 Paragraph 130 of the NPPF requires, amongst other things, that development will add to the overall quality of the area and be visually attractive as a result of good architecture and layout. It should be sympathetic to local character, including the surrounding built environment and landscape setting.
- 9.17 Policy LP16 of the Local Plan requires, amongst other things, that development makes a positive contribution to the local distinctiveness and character of the area, enhances its local setting, responds to and improves the character of the local built environment and does not adversely impact in design or scale terms on the street scene, settlement pattern and landscape character of the surrounding area (criteria d).
- 9.18 The proposal would result in a pair of dwellings which are situated within an open street frontage and separated from the built edge of March which lies approximately 40 metres to the east of this application site. The dwellings will appear as if they have been randomly positioned in this isolated position and will appear incongruous in the street scene. There appears to be no logical reason in terms of layout and positioning of the proposed dwellings as to why they would be placed at this location, other than the matter of land ownership.
- 9.19 As such the proposal will result in development that appears incongruous in this location and the street scene, contrary to policy LP16 (d) of the Local Plan and the advice contained in paragraph 130 of the NPPF.

Other Issues

- 9.20 The applicant has submitted a biodiversity checklist which shows the site does not contain protected species. Given the location of the site and its coverage, it is most likely that this is the case.
- 9.21 The site and the wider land is covered by scrub. It is not accepted that development should take place on the land simply to tidy it up. This does not override the fact that the site lies within flood zone 3 and would mean that wherever there is any untidy land, through deliberate neglect or otherwise, that it is suitable for development, which is clearly not the case.

9.22 All proposals must be considered on their merits but nevertheless, appeal Inspectors look for consistency in planning authority decision making. Should this application be approved, it would make refusal of further piecemeal development of this land west of 167 Gaul Road, more difficult to justify on appeal. Whilst this is not reason to refuse this planning application, the position of the authority at future appeals in terms of consistency and upholding the development plan is an issue to be mindful of. It should also be noted that the site has been refused permission for development twice within the past 8 years for flood risk reasons. The most recent decision on F/YR15/0991/O was taken against the current adopted development plan.

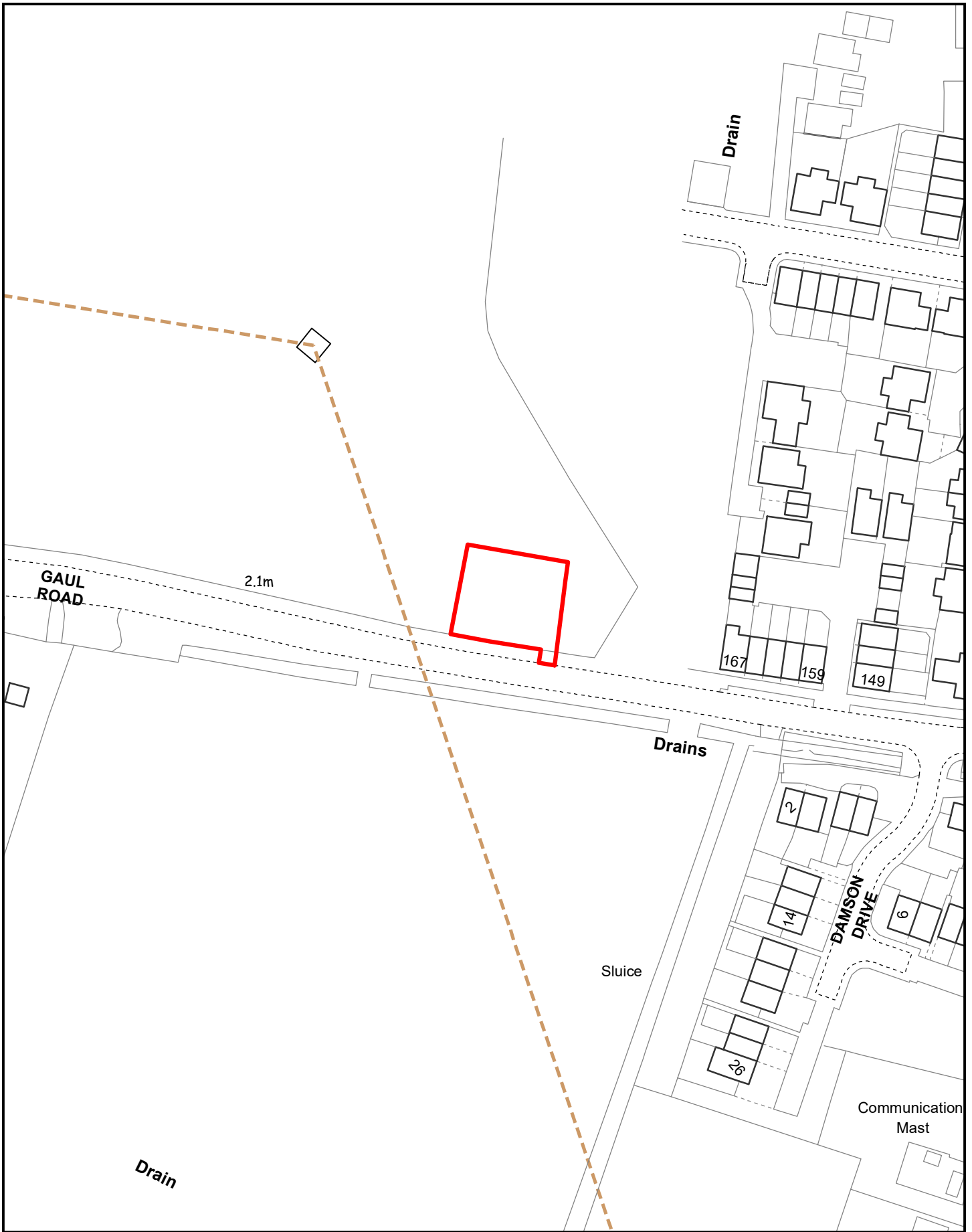
10 CONCLUSIONS

- 10.1 The site lies within flood zone 3 which is land at the greatest risk of flooding. No evidence has been submitted as to why this site should be developed as sequentially no other more suitable land at less risk of flooding is available. As such the proposal fails the sequential test and is in conflict with policy LP14, Part B of the Fenland Local Plan, the Cambridgeshire Flood and Water SPD, policy H2(c) of the March Neighbourhood Plan, paragraph 167 of the NPPF and guidance on the Sequential approach to flood risk set out in the NPPG, which seek to direct development first to areas at lowest risk of flooding.
- 10.2 The development has a poor visual relationship to the local area due to its separation and isolation from the built edge of March and appears randomly placed. This results in an incongruous form of development contrary to policy LP16(d) of the Local Plan and paragraph 130 of the NPPF.

11 RECOMMENDATION

Refuse; for the following reasons:

1	The site lies within flood zone 3 which is land as the greatest risk of flooding. No evidence has been submitted as to why this site should be developed as sequentially no other more suitable land at less risk of flooding is available. As such the proposal fails the sequential test and is in conflict with policy LP14, Part B of the Fenland Local Plan, the Cambridgeshire Flood and Water SPD, policy H2(c) of the March Neighbourhood Plan, paragraph 167 of the NPPF and guidance on the Sequential approach to flood risk set out in the NPPG, which seek to direct development first to areas at lowest risk of flooding.
2	The proposed dwellings will appear isolated in this location and divorced from the nearby development and consequently will appear as somewhat random and incongruous features, within the street scene contrary to policy LP16(d) of the Fenland Local Plan and paragraph 130 of the NPPF which require development to respond positively to the local setting and character of the area.



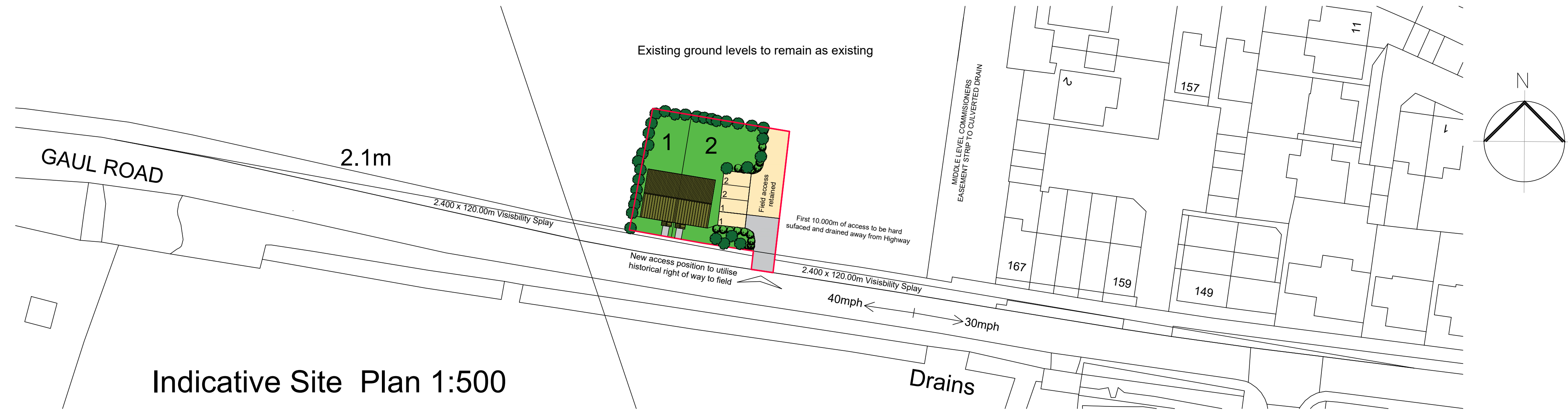
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Scale = 1:1,250





Indicative Site Plan 1:500



Site Frontage



Indicative Elevation 1:100

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REVISIONS



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PROJECT
PROPOSED SEMI's

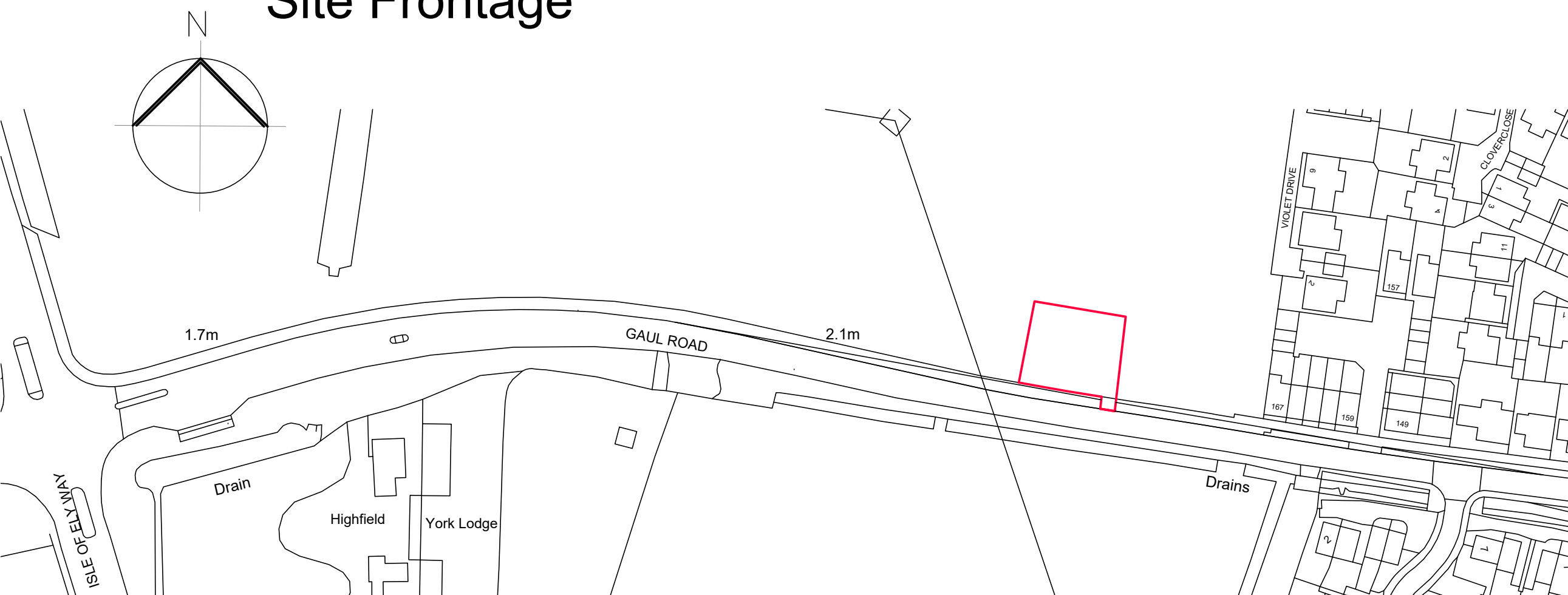
SITE
ADJ. 167 GAUL ROAD
MARCH

DRAWING
Planning Drawing

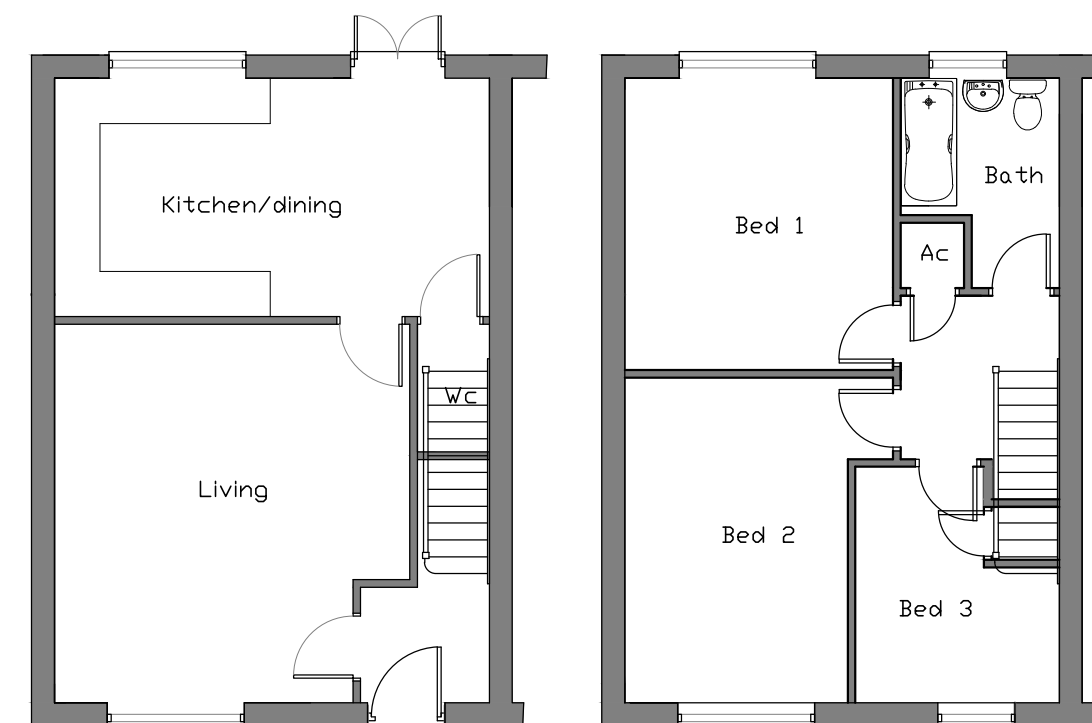
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Location Plan 1:1250



Indicative Plans 1:100