F/YR22/0746/O

Applicant: Mr T Hopkin Agent: Mr Sam Herring

Swann Edwards Architecture Limited

Land East Of Allenby Farm, Broad Drove West, Tydd St Giles, Cambridgeshire

Erect up to 2 x dwellings (Outline application with all matters reserved)

Officer recommendation: Refuse

Reason for Committee: Number of representations contrary to Officer

recommendation

1 EXECUTIVE SUMMARY

- 1.1 The site lies on the north side of Broad Drove West approximately 4km to the west of Tydd St Giles and comprises 0.4 hectares of unused amenity grassland apart from the existence of two concrete pads measuring 11.0m x 4.0m for the purposes of siting 2 no. holiday log cabins previously approved in 2007 under ref; F/YR07/0369/F. The approved holiday cabins have never been placed on the site, but the laying of the concrete pads would be classed as a 'commencement' of the 2007 permission under planning law.
- 1.2 The proposed development, seeking outline permission for new unjustified housing in an area of generally undeveloped countryside remote from local services and facilities as in essence a resubmission application to refused application F/YR21/1412/O, would undermine the principles of sustainable development as espoused within the National Planning Policy Framework (as revised) and the development plan. No case has been advanced in the application submission which would outweigh the principles of sustainability and the proposal would therefore be contrary to the National Planning Policy Framework (as revised) and Policies LP1, LP2, LP3, LP12 and LP16 of the adopted Fenland Local Plan 2014.
- 1.3 The proposal, involving the erection of two permanent dwellings without adequate justification in an area of generally undeveloped countryside, would undermine and detract from the rural character and appearance of the area. Accordingly, the proposal would fail to accord with the advice contained within the National Planning Policy Framework and would be contrary to Policies LP1, LP2, LP3 and LP16 of the adopted Fenland Local Plan 2014.
- 1.4 The application site is located within an area categorised as Flood Zone 3 High Risk of Flooding. Where development is necessary in areas at risk of flooding, paragraph 162 of the NPPF (2021) requires development to pass the Sequential Test, which aims to steer new development to areas at the lowest risk of flooding from any source. Development should not be permitted if there are reasonably available sites appropriate for the proposed development in areas at a lower risk of flooding. With extant consents and sites reasonably available throughout the District on land which is categorised as Flood Zone 1, the proposal would involve

the construction of two new permanent dwellings on land which is at greater risk of flooding and the Sequential Test therefore fails. The application is accordingly considered to be contrary to Paragraph 162 of the NPPF (2021) and Policy LP14 of the adopted Fenland Local Plan 2014.

2 SITE DESCRIPTION

- 2.1 The application site lies on the north side of Broad Drove West and comprises 0.4 hectares of unused amenity grassland apart from two concrete pads measuring 11m x 4.0m for the purposes of siting 2 no. holiday cabins previously approved in 2007 under ref; F/YR07/0369/F. The submitting agent has confirmed that the approved holiday cabins have never been placed on the site, but that the laying of the concrete pads would be classed as a 'commencement' of the 2007 approved development under planning law.
- 2.2 The site is located approximately 4km to the west of the settlement of Tydd St Giles and the area is dominated by agricultural land use. Residential development in the area is extremely sporadic and dwellings generally consist of farmhouses and more modest constructed older type dwellings.
- 2.3 Within the wider area more generally, the local road network serving the site is single track which runs alongside grass verges and drainage ditches. The nearest residential properties are Allenby Farm (applicant's property) situated to the immediate south-west of the site, and St Malo situated opposite (south) of the site containing a detached bungalow (permitted as a replacement).
- 2.4 The existing site has two grassed frontage entrance points, one on its south-west side and the other on its north-east side. A ditch runs parallel with the road frontage in front of the site's vegetated frontage boundary which is culverted underneath both entrance points.
- 2.5 Of note is that significant mixed planting has taken place to the front and side of the site which has become established over recent years with a row of tall birch trees lining the western flank boundary extending further north-westwards and a hawthorn hedge planted along the rear boundary between the site and arable land situated to the rear.
- 2.6 Apart from the aforementioned concrete slabs laid on the site, no other development has taken place or pre-exists at the site.

3 PROPOSAL

- 3.1 The current application seeks outline permission with all matters reserved for future consideration for the erection of up to 2 no. dwellings on the site and is in all material respects a resubmission application of refused application F/YR21/1412/O (see planning history below).
- 3.2 An illustrative plan is provided with the application which shows two large, detached houses with associated double garages with a ground floor area to each dwelling of 340sqm as a 'handed' development between Plots 1 and 2 which would be served by the existing/upgraded access points with one access point serving each dwelling. The indicative houses show accommodation is proposed over at

least two floors so that the ground floor area can be effectively doubled to indicate each plot's approximate gross floor area (GFA).

- 3.3 The only discernible difference between the illustrative plan shown for the current application and that as shown for determined application F/YR21/1412/O is the inclusion of an array of solar PV panels for the rear roof plane of each garage block for each dwelling (PP 1000 REV B).
- 3.4 The application is accompanied by a Design and Access Statement and a Flood Risk Assessment. Full plans and associated documents for this application can be found at: https://www.publicaccess.fenland.gov.uk/publicaccess/

4 SITE PLANNING HISTORY

Reference	Description	Decision	Date
F/YR21/1412/O	Erect up to 2 x dwellings (outline application with all matters reserved)	Refused	21.12.2021
F/YR07/0369/F	Change of use of agricultural land and erection of 2 x 2-bed holiday log cabins	Granted	15.05.2007
	Land East Of Allenby Farm Broad Drove West Tydd St Giles		
F/YR06/1133/F	Change of use of agricultural land and erection of 2 x 2-bed holiday log cabins	Refused	01.02.2007
	Land East Of Allenby Farm Broad Drove West Tydd St Giles		

5 CONSULTATIONS

5.1 Environment Agency

We have no objection to the proposed development, but strongly recommend that the development is carried out in accordance with the submitted flood risk assessment prepared by ECL0640/SWANN EDWARDS ARCHITECTURE dated November 2021.

5.2 North Level Drainage Board

North Level District IDB has no comment to make with regard to this application.

5.3 CCC Highways

Highways have no objections to this outline application in principle.

Any future reserved matters application will need to provide access details and car parking and turning arrangements that meet FDC parking standards.

5.4 FDC Environmental Health

The Environmental Health Team note and accept the submitted information and have 'No Objections' to the proposal as it is unlikely to affect or be affected by the noise or air climate. Given the absence of information to show previous

development, the application site is unlikely to have been affected by contamination.

5.5 Tydd St Giles Parish Council

Members of the Parish Council considered this application at their recent meeting. They noted that a similar application was submitted last year under reference F/YR21/1412/O, which was not supported by the Parish Council and subsequently refused. The current application is, in all material respects, a resubmission of the previous application. The objections put forward by the Parish Council last year remain valid for this application, namely that they consider the application to be an unwarranted incursion into open countryside contrary to Policies LP3 and LP12. The applicant has not provided any evidence of need to mitigate the introduction of substantial executive-style housing in a remote location in a small village. The development would be detrimental to the open character of the location and would set a precedent for further unsustainable development. Members resolved not to support the application.

5.6 Local Residents/Interested Parties

Thirteen representations received in support of the application (three from residents of Broad Drove West, two from High Broadgate and one each from Hockland Road, Church Lane and Kirkgate (all Tydd St Giles), two each from Churchill Road, Gorefield and Ibstock Close, Tydd St Mary and one from High Road, Newton-in-the Isle). These may be summarised as follows:

- The development would make good use of otherwise unused land
- Intended occupiers of the new development live locally
- The development would help enhance the appearance of the area
- The development would be concealed by natural hedgerows and new planting which in turn would encourage new wildlife
- The setting back of the dwellings would be consistent with the dwellings in the rest of the lane
- Impact on existing foul drainage would be minimal as there are no sewers in the area
- Better to have permanent homes on the site than holiday homes as holiday homes would generate greater traffic, more noise and different people to the area
- The development would help maintain the local community
- The development would add to the expansion of the village and subsequent introduction of better amenities in the course of time
- The development will bring more support to local business

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

National Planning Policy Framework (NPPF) (revised July 2021)

Para 2 – Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise.

Para 7 – The purpose of the planning system is to contribute to the achievement of sustainable development.

Para 11 – Plans and decisions should apply a presumption in favour of sustainable development.

Para 12 – The presumption in favour of sustainable development does not change the statutory status of the development plan as the starting point for decision-making.

Para 60 – To support the government's objective of significantly boosting the supply of homes, it is important that a sufficient amount and variety of land can come forward where it is needed, that the needs of groups with specific housing requirements are addressed and that land with permission is developed without unnecessary delay.

Para 78 – In rural areas, planning policies and decisions should be responsive to local circumstances and support housing developments that reflect local needs. Para 79 – To promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. Para 80 – Planning policies and decisions should avoid the development of isolated homes in the countryside...

Para 110 – In assessing...specific applications for development, it should be ensured that: (a) appropriate opportunities to promote sustainable transport modes can be – or have been – taken up, given the type of development and its location...

Para 119 – Planning policies and decisions should promote an effective use of land in meeting the need for homes and other uses, while safeguarding and improving the environment and ensuring safe and healthy living conditions. Para 159 – Inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk.

National Planning Practice Guidance (NPPG)

Process for determining a planning application.

National Design Guide 2021

Context Identity Built Form Movement Nature

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

LP12 - Rural Areas Development Policy

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

LP16 – Delivering and Protecting High Quality Environments across the District

8 KEY ISSUES

- Principle of development
- Planning history
- New permanent dwellings in the countryside
- Sustainability credentials
- Landscape impact
- Flood risk
- Other Matters

9 BACKGROUND

- 9.1 This application seeks outline permission with all matters reserved for the erection of up to 2 no. dwellings with associated garages.
- 9.2 As referenced above, planning permission was granted in 2007 for the change of use of agricultural land at this location and the erection of 2 x 2-bed holiday cabins. The approved development was commenced by the laying of two concrete pads on the land, but the holiday cabins have never been placed on them.
- 9.3 It is doubtful that such a proposal would now be considered acceptable in planning policy terms given the relative isolated nature of the site (although noting the definition of isolation in the judgement in Braintree District Council v Secretary of State for Communities and Local Government, Greyread Limited & Granville Developments Limited EWHC 2743 (Admin)), as the site lies within Flood Zone 3 and that the sequential/exception test needs to be applied, and the impact that such a proposal would have on local landscape character and appearance.
- 9.4 Notwithstanding this, and given no obvious attempt has been made by the applicant over the past 15 years or so to further implement the extant permission despite the case being advanced at the time that there was a *'niche in the market'* for such accommodation, the applicant is still at liberty to fully implement that permission today to provide 2 no. modest sized holiday homes.
- 9.5 It is of note that the 2007 permission significantly pre-dated the adoption of the 2014 (and still current) Fenland Local Plan, the National Design Guide (2018) and the latest version of the National Planning Policy Framework (and indeed the first iteration of it published in 2012).

10 ASSESSMENT

Principle of Development

10.1 The application proposes the erection of up to 2 no. dwellings on the site and is in essence a resubmission application without change to refused application F/YR21/1412/O for the same said development save for the inclusion of an array of

- solar PV panels for the rear roof plane of each garage block for each dwelling as previously referenced.
- 10.2 Tydd St Giles is a village settlement lying approximately 4km to the east of the site. Under the Fenland Local Plan (adopted 2014). Policy LP3 identifies the settlement as a 'Small Village' in which development will be considered on its merits, but will be of a very limited nature and scale and comprise infill plots in an otherwise continuously built-up frontage. Being located outside and significantly beyond the built-up area of the village, the proposed development falls to be determined against countryside protection policies and sustainability principles.
- 10.3 The site is additionally located within an area defined by the Environment Agency as Flood Zone 3, representing the highest flood risk, and the Sequential Test should therefore be applied (Policy LP14 of the adopted Local Plan).
- 10.4 Policy LP12 of the Local Plan relates to development within rural areas and requires development to not adversely affect the character and appearance of the surrounding countryside, including farmland. Part D of Policy LP12 sets out the applicable criteria under which new dwellings proposed within 'Elsewhere' locations would be acceptable, such as dwellings required for essential agricultural need, where supporting evidence is required to justify the proposal.
- 10.5 Policy LP16 of the Local Plan states that the proposed development should demonstrate that it makes a positive contribution to the local distinctiveness and character of the area and does not adversely impact either in design or scale terms on the streetscene, the settlement pattern or on the landscape character of the surrounding area (LP16(d)).
- 10.6 The principle of development of this rural site has previously been established for the purposes of recreation and tourism as approved in 2007 and is now required to be subject to national and local policy scrutiny for proposed housing as an alternative form of development as now being applied for, which is now considered below.

Planning History

- 10.7 The planning history relating to the development of this site, namely determined applications F/YR06/1133/F and F/YR07/0369/F relating to the provision of holiday cabins and most recently F/YR21/1412/O relating to the erection of up to 2 no. permanent dwellings represents a material consideration in the determination of the current application.
- 10.8 The change of use of agricultural land and erection of 2 x 2-bed holiday cabins under F/YR06/1133/F was refused by the LPA on the basis of unjustified new residential development within the countryside which would be detrimental to the rural character of the area and due to insufficient landscaping details associated with the proposed development.
- 10.9 The application was re-submitted under ref; F/YR07/0369/F which sought to address the previous reasons for refusal by the submission of a business plan and landscaping details. The application was approved based upon the application directly addressing an identified need for low-key holiday accommodation within the area and promising local employment for servicing the holiday cabins. A condition was imposed on the grant of that planning permission requiring that the holiday cabins were to be used for holiday accommodation only and not as

permanent residential accommodation by the occupants (and thus preserving the recreation/tourism intentions of the application as submitted). As mentioned previously in this report, the preparatory element of this approved development has been implemented by the laying of two concrete pads for the cabins to be sited on, which can still be seen on the site today.

10.10 Application F/YR21/1412/O for the erection of 2 x dwellings with all matters reserved at the site was refused by the Council on the grounds that the proposal would fail to represent a sustainable form of development, would be detrimental to the character and appearance of the countryside and would represent a flood risk.

New permanent dwellings in the countryside

- 10.11 The NPPF and the development plan for the area require the countryside to be protected for its own intrinsic value and to prevent new residential development in the rural areas unless it is based on essential need such as in connection with a rural enterprise and proven compliance with a financial and functional test as set out under Part D of Policy LP12 of the Fenland Local Plan.
- 10.12 No such case has been advanced for the current proposal for new permanent residential development in the form of market dwellings at this countryside location and therefore the application falls to be determined against existing prevailing countryside protection policies as was previously applied for refused application F/YR21/1412/O.

Sustainability credentials

- 10.13 The key theme running through the NPPF and endorsed in the adopted Fenland Local Plan is that of promoting and achieving sustainable development. The NPPF states in this regard at paragraph 7 that "The purpose of the planning system is to contribute to the achievement of sustainable development".
- 10.14 To this end, new residential development is directed to more sustainable locations such as the built-up areas of towns and filtering down through a hierarchy of settlements (Policy LP3) to the smaller villages. In the built-up areas where housing demand is at its greatest, provision can be made for services and facilities to meet the needs of the local community. Similarly, development in such areas can bolster the local economy and encourage investment in such facilities, thereby attracting more housing development in such locations.
- 10.15 The application is remote from nearby settlements in relative terms being isolated physically within a rural location lacking in any public transport to local service centres and being too remote for walking or cycling to access such services or amenities whereby future occupants of the proposed development would be entirely dependent on the private motor vehicle for transport.
- 10.16 Similarly, the protection and enhancement of the countryside as a natural resource is an important element of sustainable development, including the prevention of new unjustified dwellings within the countryside which are remote from local services and which undermine the character and appearance of the area.

Landscape impact

10.17 The application site is located within an area of open countryside. Some planting has already taken place to the boundaries of the site as previously noted in the officer report for refused application F/YR21/1412/O, including along the site's rear boundary, presumably as required under the 2007 permission which was conditioned accordingly. However, the site is still visible in the local lane context and is conspicuous by reason of this planting compared to the open character of the adjoining agricultural fen.

10.18 Whilst new planting was required in connection with this now historic permission, it is considered given its low height that it would not adequately screen or soften the proposed development's impact on the character and appearance of the countryside, particularly given the indicated two storey scale and massing of the proposed dwellings where no indication is given in this resubmission application that the development would be at a lesser scale. This landscaping may have assisted in softening the impact of the two single storey, timber clad holiday cabins considered acceptable for this site under the 2007 permission. However, the planting undertaken, and indeed the planting indicated for the current application would not provide adequate screening for the new two storey dwellings shown for the site and would not address the principle of unsuitable new housing at this location given the permanent nature of the proposed development.

Flood Risk

- 10.19 A flood risk assessment (FRA) accompanies the current application given the site is located within Flood Zone 3 (highest risk of flooding) where a FRA was similarly submitted for refused application F/YR22/1412/O. It is stated in the submitted document that the principle of residential development is already established on the site given the extant 2007 permission for the two holiday cabins whereby this permission serves as mitigating circumstances in relation to the required sequential test where it is posited that; 'The proposal will substitute the extant consent with the same amount of residential units; therefore the site can be considered as sequentially preferable'. The report goes onto state that in any event there are no alternative sites available which could accommodate this particular development, further that the site is not at risk of either fluvial or tidal flooding and that resilience measures would be put in place to protect future occupants of the development in such an unlikely flood event, concluding that the Sequential Test and also the Exception Test are met.
- 10.20 It is noted that the officer report for refused application F/YR21/1412/O remarked that there are other residential build plots at lower risk of flooding available within the wider area, effectively within the settlements, although the report also acknowledged that the 2007 permission for the single storey pre-fabricated log cabins at the site was a material consideration in the assessment of flood risk before officers. That said, the decision notice for application F/YR21/1412/O carried a third reason for refusal, namely that there were in the Council's opinion extant planning permissions and sites reasonably available throughout the District (namely the wider search) on land which is categorised as Flood Zone 1 and that the proposed development failed the Sequential Test. Accordingly, the proposal for the current application fails the Sequential Test also.

Other Matters

10.21 As was the case for refused application F/YR21/1412/O, the case is made again by the applicant for the current application that the 2007 permission for the approval of the 2 no. holiday cabins is a material consideration by representing a 'fall-back position'. Furthermore, it is stated that the way in which the description for that approved application was given, namely for 'Change of use of agricultural

land and erection of 2 x 2-bed holiday log cabins,' makes it clear that the cabins are to be erected, i.e. built, and therefore tantamount to representing permanent structures and not falling within the definition of a caravan (i.e. temporary structures).

- 10.22 However, as was also noted in the officer report for refused application F/YR21/1412/O, no further progress has been made on that approved development despite the identified 'pressing need' for local holiday/leisure accommodation as advanced by the applicant at the time and as locally endorsed. Similarly, whilst the Council does not contest the claim that a lawful start has been made on the 2007 permission, it is the applicant's prerogative if they wish to continue with the implementation of that previous approval. However, this position is not considered to set any precedent for the development of two residential dwellings on the site.
- 10.23 It is considered that there are no material circumstances advanced by the applicant for what is essentially the same development as previously applied for under refused application F/YR21/1412/O to warrant an approval for new permanent and unjustified residential development within the countryside of a significantly different scale, function and permanence not previously approved whereby such development would remain on the site for many years to come.

11 CONCLUSIONS

11.1 In light of the above assessment, it is asserted that the proposal does not represent a sustainable form of development and would undermine the rural character and appearance of the countryside at this remote rural location where no material circumstances exist for the current application to warrant a different recommendation made in respect of outline application F/YR21/1412/O for the same said development.

12 RECOMMENDATION

REFUSE; for the following reasons:

The development plan seeks to direct new housing development to existing settlements where the provision of local services and facilities are located.

The proposed development, seeking outline permission for new unjustified housing in an area of generally undeveloped countryside remote from such services and facilities, would undermine the principles of sustainable development as espoused within the National Planning Policy Framework (as revised) and the development plan.

No case has been advanced in the application submission which would outweigh the principles of sustainability and the proposal would therefore be contrary to the National Planning Policy Framework (as revised) and Policies LP1, LP2, LP3, LP12 and LP16 of the adopted Fenland Local Plan 2014.

2 The proposal, involving the erection of two permanent dwellings

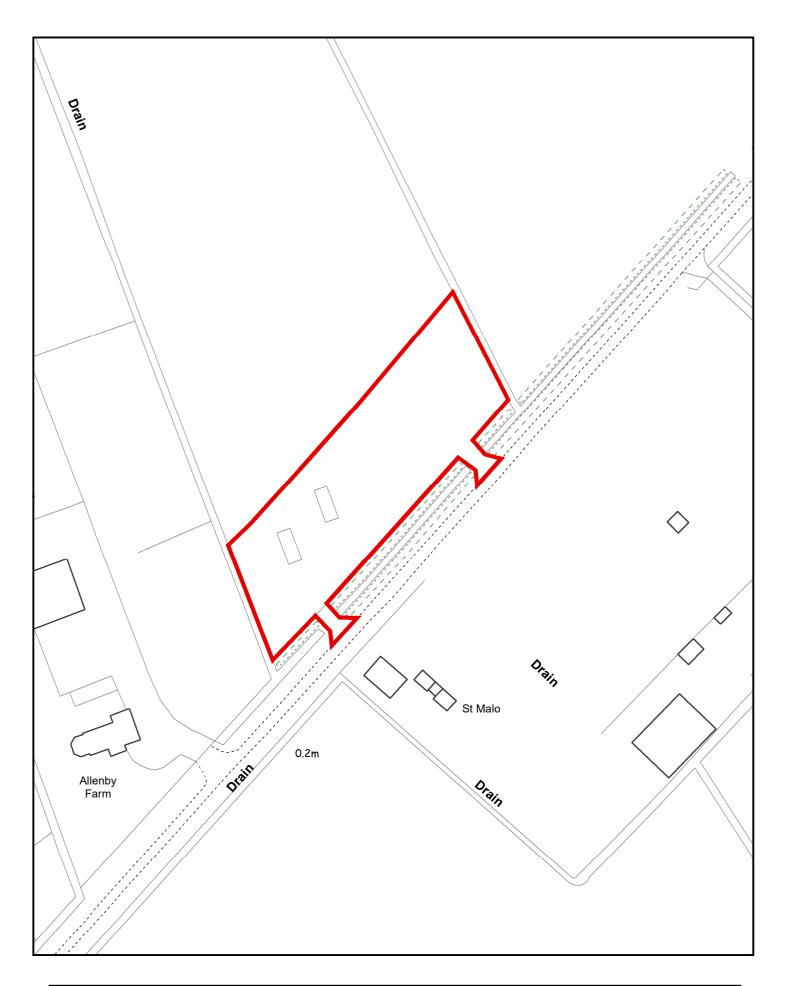
without adequate policy justification in an area of generally undeveloped countryside, would undermine and detract from the rural character and appearance of the area.

Accordingly, the proposal would fail to accord with the advice contained within the National Planning Policy Framework and would be contrary to Policies LP1, LP2, LP3, LP12 and LP16 of the adopted Fenland Local Plan 2014.

The site is located within an area categorised as Flood Zone 3 - Highest risk of flooding. Where development is necessary in areas at risk of flooding, Paragraph 162 of the National Planning Policy Framework (2021) requires development to pass the Sequential Test, which aims to steer new development to areas at the lowest risk of flooding from any source. Development should not be permitted if there are reasonably available sites appropriate for the proposed development in areas at a lower risk of flooding.

With extant consents and sites reasonably available throughout the District on land which is categorised as Flood Zone 1, the proposal would involve the erection of two new permanent dwellings on land which is at greater risk of flooding and the Sequential Test therefore fails.

The application is accordingly considered to be contrary to Paragraph 162 of the National Planning Policy Framework (2021) and Policy LP14 of the adopted Fenland Local Plan 2014.

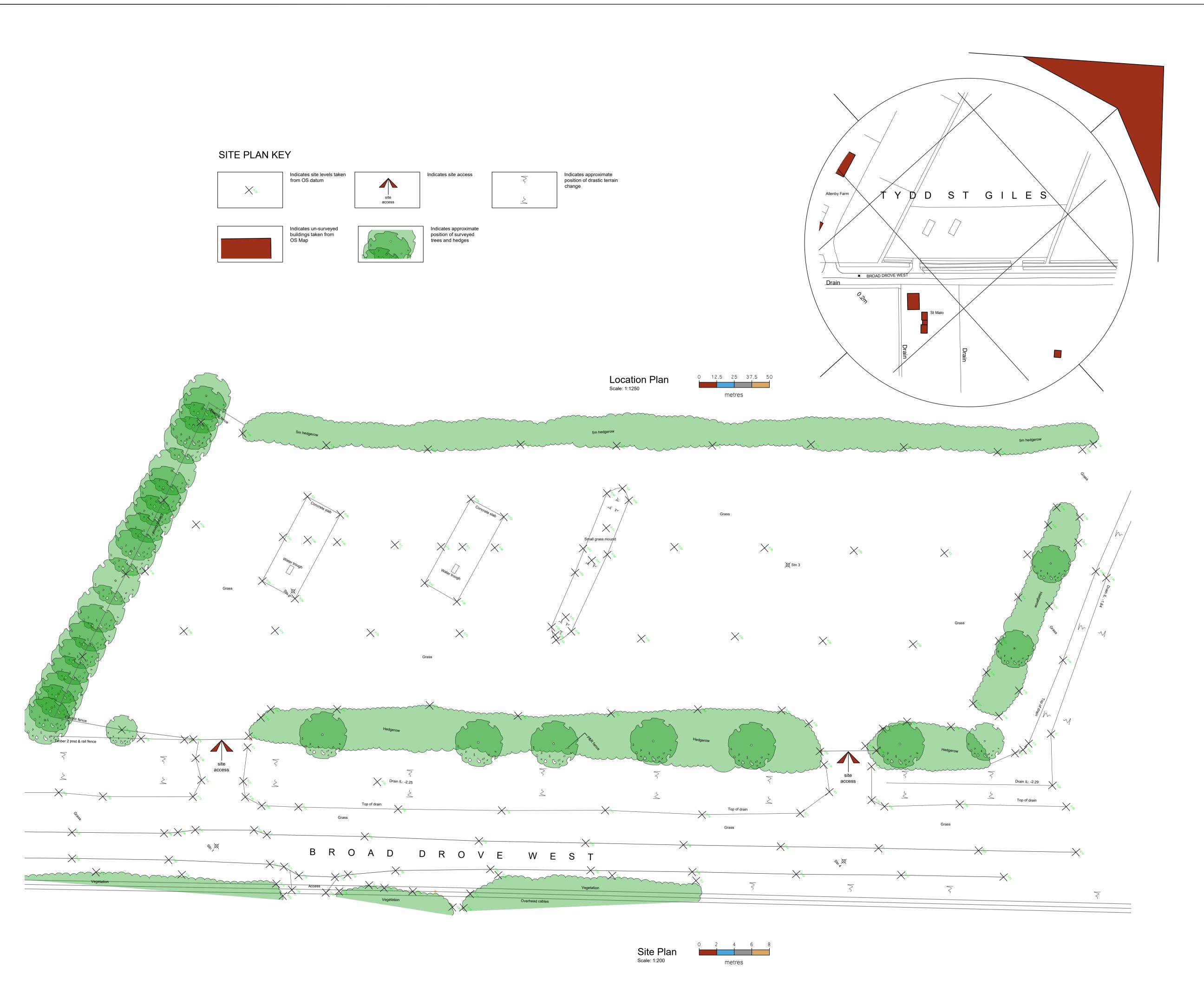


Created on: 23/06/2022

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Fenland District Council



General Notes

1. All dimensions are shown in 'mm' unless otherwise stated. 2. The contractor, sub-contractors and suppliers must verify all dimensions on site prior to the commencement of any work. 3. This drawing is to be read in conjunction with all relevant engineers and specialist sub-contractors drawings and specifications.

CONSTRUCTION DESIGN & MANAGEMENT REGULATIONS 2015

4. Any discrepancies are to be brought to the designers attention.

The following information must be read in conjunction with the project Risk register. This drawing highlights significant design related Health & Safety Risks present during Construction phase, and Residual Risks which remain post completion. Other Health & Safety Risks associated with Construction Activities may be present, and must be identified by the Principal Contractor prior to works commencing. Design Risks relating to specialist design items must be identified by the relevant specialist designers/ consultants and issued to the Principal Designer.









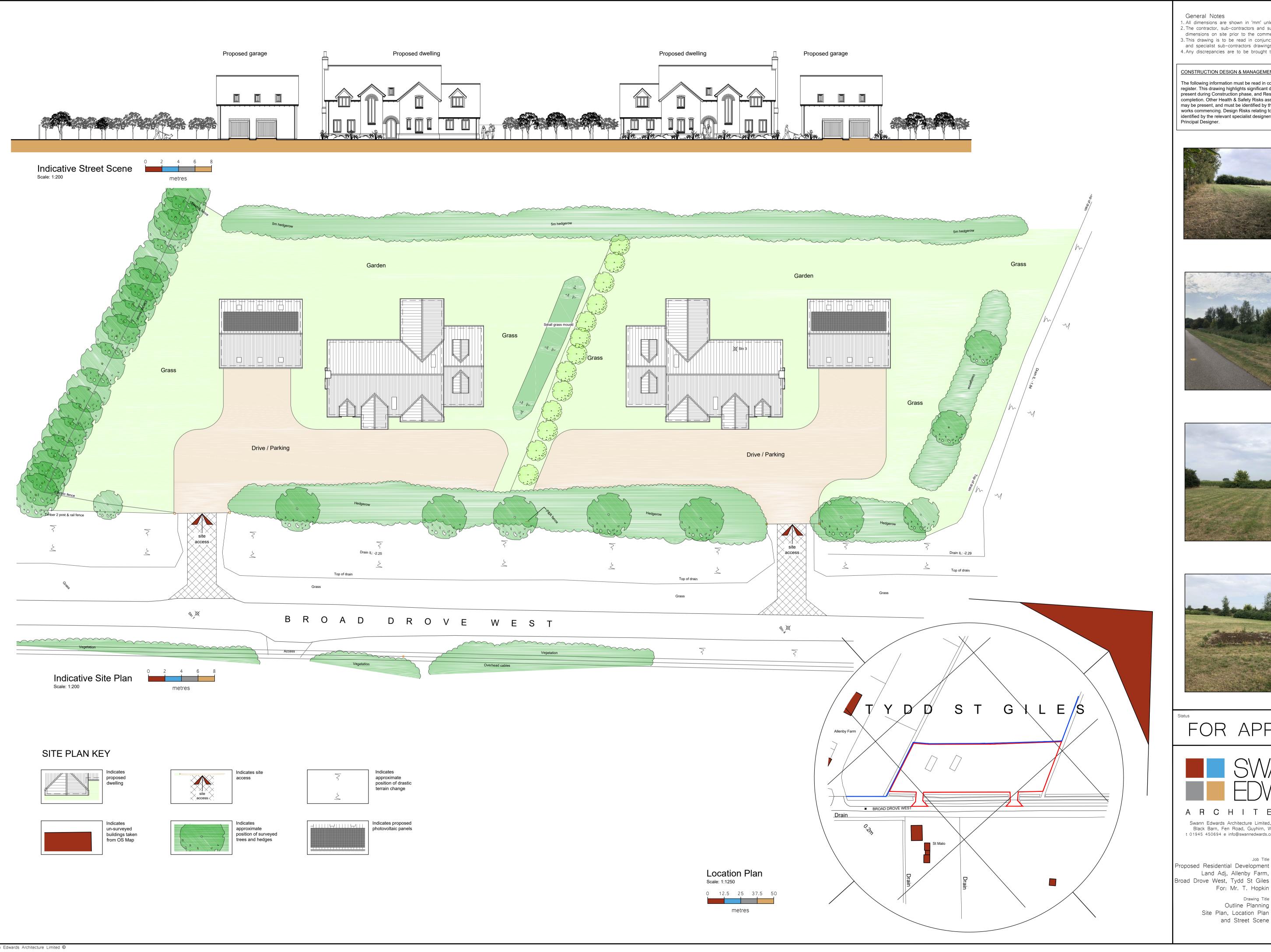
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Proposed Residential Development
Land Adj, Allenby Farm,
Broad Drove West, Tydd St Giles
For: Mr. T. Hopkins

Site Plan & Location Plan



General Notes

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FOR APPROVAL



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Outline Planning SE-1727 Site Plan, Location Plan and Street Scene Plan

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PP1000

Checked by

October

2021