
F/YR22/0919/O

Applicant: Mr J White

**Agent : Mr Gareth Edwards
Swann Edwards Architecture Limited**

Land South Of 733, Whittlesey Road, March, Cambridgeshire

Erect up to 2no. dwellings (outline application with all matters reserved)

Officer recommendation: Refuse

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

1 EXECUTIVE SUMMARY

- 1.1. This application seeks outline planning permission for the erection of up to 2no. dwellings on land south of No.733 Whittlesey Road, located in a rural area on the edge of Turves. The application is made with all matters reserved for later approval, and consequently the only issue for consideration at this time is whether or not the principle of development is acceptable in this location.
- 1.2. The village of Turves is classed as a 'Small Village' within Policy LP3, where development will be considered on its merits but normally limited in scale to residential infilling. The site cannot be considered as infill development as it extends into undeveloped land beyond the built form of the settlement. As such, the scheme is considered contrary to Policy LP3.
- 1.3. The development proposed would see up to two detached dwellings positioned on undeveloped agricultural land that currently forms a distinct and natural demarcation between the developed built form of Turves and the countryside beyond. Development on this land would be to the detriment of the character and appearance of the rural area as it would directly contradict the current settlement pattern and would arguably create a precedent for further development into the countryside, eroding the existing rural character to the south of March Road/Whittlesey Road, contrary to the requirements of policy LP12 and Policy LP16 (d).
- 1.4. The site is located in Flood Zone 3, the area at highest risk of flooding. Policy LP14 requires development proposals to adopt a sequential approach to flood risk from all forms of flooding, and states that development in an area known to be at risk will only be permitted following the successful completion of a Sequential Test, an Exception Test, and the demonstration that the proposal meets an identified need and appropriate flood risk management. The application is accompanied by a Flood Risk Assessment that does not include consideration of the Sequential and Exception Tests. As such, the proposal fails to accord with the necessary requirements of Policy LP14.
- 1.5. Thus, given the following consideration of these planning policies, the proposal is considered unacceptable in principle and is recommended for refusal.

2 SITE DESCRIPTION

- 2.1. The application site relates to an area of land immediately south of No.733 Whittlesey Road. Whilst the application address is stated as March, the site is located in a rural area on the edge of Turves, approximately 3.5 miles west of the urban area of March.
- 2.2. The site is currently open agricultural land, accessed by a gravel track, part of Public Footpath No.29, which forms its western boundary running in a north/south direction from a bend in at the convergence of March Road (east/west) and Whittlesey Road (north/south). The site is bounded on its south and east sides by a further gravel track that provides access to Dodd's Farm to the northeast. To the north is timber fencing demarcating the land from the dwelling at No.733. Opposite the site and access track to the west, is frontage residential development, the nearest being No.464 March Road.
- 2.3. Beyond the site to the east and south is agricultural land.

3 PROPOSAL

- 3.1. This application is an outline application proposing the erection of up to 2 dwellings on the site, with all matters reserved. The indicative site plan suggests two L-shaped properties handed to one another, with individual accesses leading to frontage driveway/parking areas, and amenity spaces to the rear. An indicative street scene elevation is provided indicating that the proposed dwellings may be of a similar design, scale and relationship to that of Nos. 731 and 733 adjacent.
- 3.2. Full plans and associated documents for this application can be found at: <https://www.fenland.gov.uk/publicaccess/>

4 SITE PLANNING HISTORY

F/YR18/0052/O	Erection of up to 2no. dwellings (outline application with all matters reserved) Land South Of 464 March Road Turves	Refused 04.05.2018
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5 CONSULTATIONS

- 5.1. **March Town Council** – *Recommendation: Approval*
- 5.2. **Environment & Health Services (FDC)** – *The Environmental Health Team note and accept the submitted information and have 'No Objections' to the proposed scheme as it is unlikely to have a detrimental effect on local air quality and the noise climate or be affected by ground contamination.*
- 5.3. **Environment Agency** – *Thank you for your consultation dated 15 August 2022. We have reviewed the documents as submitted and we have no objection to the proposed development on flood risk grounds.*
- 5.4. **Definitive Map Team** – *Whilst the Definitive Map Team has no objection to this proposal, the Footpath must remain open and unobstructed at all times.*

Informatives

Should you be minded to grant planning permission we would be grateful that the following informatives are included:

- *Public Footpath 29 must remain open and unobstructed at all times. Building materials must not be stored on Public Rights of Way and contractors' vehicles must not be parked on it (it is an offence under s 137 of the Highways Act 1980 to obstruct a public Highway).*
- *The Public Footpath must not be used to access the development site unless the applicant is sure they have lawful authority to do so (it is an offence under S34 of the Road Traffic Act 1988 to drive on a Public footpath without lawful authority).*
- *Landowners are reminded that it is their responsibility to maintain boundaries, including trees, hedges and fences adjacent to Public Rights of way, and that any transfer of land should account for any such boundaries (s154 Highways Act 1980).*
- *No alteration to the Footpath's surface is permitted without our consent (it is an offence to damage the surface of a public footpath under s 1 of the Criminal Damage Act 1971).*
- *The granting of planning permission does not entitle a developer to obstruct a Public Right of Way (Circular 1/09 para 7.1).*
- *The Highways Authority has a duty to maintain Public Rights of Way in such a state as to be suitable for its intended use. (S41 Highways Act 1980 and S66 Wildlife & Countryside Act 1981). If the surface of the footpath is damaged as a result of increased motorised vehicle usage, the Highways Authority is only liable to maintain it to a footpath standard respectively. Those with private vehicular rights will therefore be liable for making good the surface of the Public Right of Way.*

5.5. **CCC Highways** – *Highways have no objections to the above application.*

However, the road off March Road leading to the development is private and the proposed loose stone will not be adopted.

As a standard accesses off the highway to residential developments, should be sealed and to be drained away from the highway in a bound material for a minimum of 5m back from the existing highway. The vehicular access would be laid out and constructed in accordance with the Cambridgeshire County Council construction specification. Surface water from private roads/ driveways areas must not discharge onto the public highway, and appropriate intervention must be provided.

This application should provide car parking and turning arrangements that meets FDC parking standards.

5.6. **Local Residents/Interested Parties** –Nine letters of support for the application have been received from seven addresses within Turves. The reasons for support can be summarised as:

- The scheme will blend with the surrounding development;
- The scheme will not cause undue incursion into the open countryside;
- There will be limited impacts to neighbours as a result of the scheme;
- In keeping with the existing street scene and local character;
- The land on which the scheme is proposed is unable to be farmed;
- There is an appropriate road layout to service the plots;
- The scheme will enhance the local area; and
- The proposal is a natural extension to the area.

Two letters of support cited no reasons, just that the scheme was supported.

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) July 2021

Para 2 – Applications be determined in accordance with development plan;
Para 11 – Presumption in favour of sustainable development;
Para 48 – Local planning authorities may give weight to relevant policies in emerging plans according to: a) the stage of preparation of the emerging plan (the more advanced its preparation, the greater the weight that may be given);
Para 80 – Development within the countryside;
Para 110 – 112 – Promoting sustainable transport;
Para 130 – Creation of high quality buildings;
Section 14 – Meeting the challenge of climate change, flooding and coastal change

7.2. National Planning Practice Guidance (NPPG)

7.3. National Design Guide 2021

Context
Built Form

7.4. 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 area development policy
LP14 – Responding to climate change and managing the risk of flooding
LP15 – Facilitating the creation of a more sustainable transport network
LP16 – Delivering and protecting high quality environments across the district

7.5. March Neighbourhood Plan 2017

H2 – Windfall Development

7.6. Emerging Local Plan

The Draft Fenland Local Plan (2022) was published for consultation on 25th August 2022, the first stage of the statutory process leading towards the adoption of the Plan. Given the very early stage which the Plan is therefore at, it is considered, in accordance with Paragraph 48 of the NPPF, that the policies of this should carry extremely limited weight in decision making. Of relevance to this application are policies:

LP1 – Settlement Hierarchy
LP2 – Spatial Strategy for the Location of Residential Development
LP7 – Design
LP8 – Amenity Provision
LP18 – Development in the Countryside
LP20 – Accessibility and Transport
LP21 – Public Rights of Way
LP22 – Parking Provision
LP32 – Flood and Water Management

7.7. **Delivering and Protecting High Quality Environments Supplementary Planning Document**

7.8. **Cambridgeshire Flood And Water Supplementary Planning Document**

8 KEY ISSUES

- **Principle of Development**
- **Character and Amenity**
- **Flood Risk**
- **Access and Parking**

9 BACKGROUND

- 9.1. The submitted Design and Access statement in respect of this application includes considerable discrepancies and errors with regard to the scheme, with references to 'Sand Bank', the proposal for a 'maximum of a single dwelling,' references to IDB drains forming the southern boundary, reference to 'The Poplars' and the apparent subdivision of its curtilage, and the siting of the development in a 'Growth Village'. The below assessment, therefore, considers the proposal in the context of the submitted application form and drawings, with little regard to the details within the Design and Access statement.

10 ASSESSMENT

Principle of Development

- 10.1. The village of Turves is classified as a 'Small Village' within Policy LP3 of the Local Plan, where development will be considered on its merits but normally limited in scale to residential infilling. The site cannot be considered as infill development as it extends into undeveloped land beyond the built form of the settlement. As such, the scheme is considered contrary to Policy LP3.
- 10.2. Policy LP12 of the Local Plan supports development that does not harm the wide open character of the countryside and provides further guidance as to the restriction of such development to ensure that it has an acceptable impact on the settlement and its character. The Policy requires development to meet certain criteria in order to be supported. The site must be in or adjacent to the existing developed footprint of the village, it must not result in coalescence with any neighbouring village, and must not have an adverse impact on the character and appearance of the surrounding countryside and farmland.
- 10.3. Similarly, the proposal must be in keeping with the core shape and form of the settlement, without resulting in the extension of linear features or create ribbon development, and must retain natural boundaries, respect ecological features, important spaces, etc. Finally, the proposal must be served by sustainable infrastructure, and must not put people or property in danger from identified risks.
- 10.4. Adjacent dwellings to the site, Nos.731 and 733 Whittlesey Road to the north and No.464 March Road to the west are frontage residential development, with land to the east and south clearly agricultural in nature. The existing site is positioned on the edge of the settlement and as such relates more to the agricultural land as opposed to the frontage development, particularly in respect of the access to the site off of Public Footpath No.29 as opposed to the main highway network of Whittlesey/March Road. Thus, the proposed development would be discordant with the existing core shape and built form of the development along both Whittlesey Road and March Road. Development encroaching into this land

would be to the detriment of the character and appearance of the area and would arguably create a precedent for further piecemeal development in an unsustainable rural location. Therefore, the proposal is considered contrary to Policy LP12.

- 10.5 With regard to the consultation draft to of the emerging Local Plan, which carries limited weight as this time, given that consultation has only recently commenced, the site is outside of the defined settlement boundary and is therefore classed as open countryside where development will only be permitted in the circumstances set out within the NPPF.
- 10.6 Policy LP1 of the emerging Plan does contain an element relating to Frontage Infill Development, applicable at the edge of settlements. It is considered that this conflicts with the NPPF and therefore can carry no weight. However , for the sake of completeness, if this policy were to be applied the development would not accord given the nature of the site, the scale of development and the flood classification of the site.
- 10.7 Consequently, the proposed development is in clear conflict with the policies of the adopted Local Plan, the NPPF and also would not comply with the emerging Plan.

Character and Amenity

- 10.8. Details of appearance, layout and scale are to be submitted at Reserved Matters stage, however the submitted indicative street scene drawing suggests that the dwellings will be similar in style and scale to Nos. 731 and 733 Whittlesey Road. As such, it is acknowledged that the proposal may form a congruous style with adjacent development.
- 10.9. Notwithstanding, Policy LP16 (d) considers the impact of development has on local distinctiveness and character of the areas. Moreover, in rural areas, a development proposal needs also to satisfy the criteria set out in Policy LP12. As this application is Outline only with no matters committed, the main issue for consideration is whether the *principle* of development in this location would accord with the necessary criteria of Policy LP16(d) and LP12.
- 10.10. The development proposed would see up to two detached dwellings positioned on undeveloped agricultural land that currently forms a distinct and natural demarcation between the developed built form of Turves and the countryside beyond. Development on this land would be to the detriment of the character and appearance of the rural area as it would directly contradict the current settlement pattern and would arguably create a precedent for further development into the countryside, eroding the existing rural character to the south of March Road/Whittlesey Road, contrary to the requirements of policy LP12 and Policy LP16(d).

Flood Risk

- 10.11. The site is located in Flood Zone 3, the area at highest risk of flooding. Policy LP14 requires development proposals to adopt a sequential approach to flood risk from all forms of flooding, and states that development in an area known to be at risk will only be permitted following the successful completion of a Sequential Test, an Exception Test, and the demonstration that the proposal meets an identified need and appropriate flood risk management.

- 10.12. The application is accompanied by a Flood Risk Assessment that does not include consideration of the Sequential and Exception Tests, incorrectly asserting that as the site is within a defended area it should be classified as Flood Zone 1. The Flood and Water SPD is explicit in setting out that the existence of defences should be disregarded in undertaking the sequential test.
- 10.13. Noting the adopted and indeed consistent stance of the LPA when applying the sequential test on sites which do not comply with the settlement hierarchy it is asserted that the scheme has no potential to satisfy the sequential test, as this would require the application of the Sequential test on a district wide scale. It is further identified in the updated NPPG (August 2022) that even where a flood risk assessment shows that development can be made safe for its lifetime the sequential test still needs to be satisfied, i.e. flood risk safety measures do not overcome locational issues.
- 10.14. As such, the proposal fails to accord with the necessary requirements of Policy LP14, the SPD and the NPPF, and as such, should be refused on the basis of a lack of demonstrable evidence that the scheme would be acceptable in respect of flood risk.

Access and Parking

- 10.15. With respect to parking, the indicative site plans submitted suggest that there would likely be ample car parking and turning availability within the frontage of the proposed dwellings.
- 10.16. Notwithstanding, in seeking Outline permission it is necessary to demonstrate that an acceptable access to the site would be achievable. The red line for this application links to the public highway network at the corner of March Road and Whittlesey Road via the public footpath No.29 with individual accesses for the development off the public footpath. Whilst the Rights of Way officer did not object to the development they did specify:

The Public Footpath must not be used to access the development site unless the applicant is sure they have lawful authority to do so (it is an offence under S34 of the Road Traffic Act 1988 to drive on a Public footpath without lawful authority).

No demonstration of a right of access for vehicular purposes has been provided by the applicant. However, the matter of right of access would be dealt with under S34 of the Road Traffic Act 1988 and as such does not form part of material planning consideration.

- 10.17. The existing access is a loose stone track that would require significant upgrade to its surfacing to improve the proposed access to an acceptable standard to support the proposed dwellings. In addition to the right for vehicular access being proven, any improvement to surfacing of the track for vehicular use would require agreement from the Rights of Way team. There would be no certainty that this would be agreed, given the public footpath designation and previous planning history in respect of proposed accesses utilising this track (F/YR18/0052/O). Comments from the LHA raise no objection to the proposed access in principle, although it was noted that the access would unlikely be adopted by the LHA and the above matters would need to be resolved with the Rights of Way team to ensure suitable access to the site.
- 10.18. This application is Outline in nature with no matters committed, and as such detailed matters pertaining to the access and its suitability would be retained for

Reserved Matters stage, however it is noted that substantive works will be required, with the necessary consents obtained, to ensure that the access would be acceptable with respect to Policy LP15.

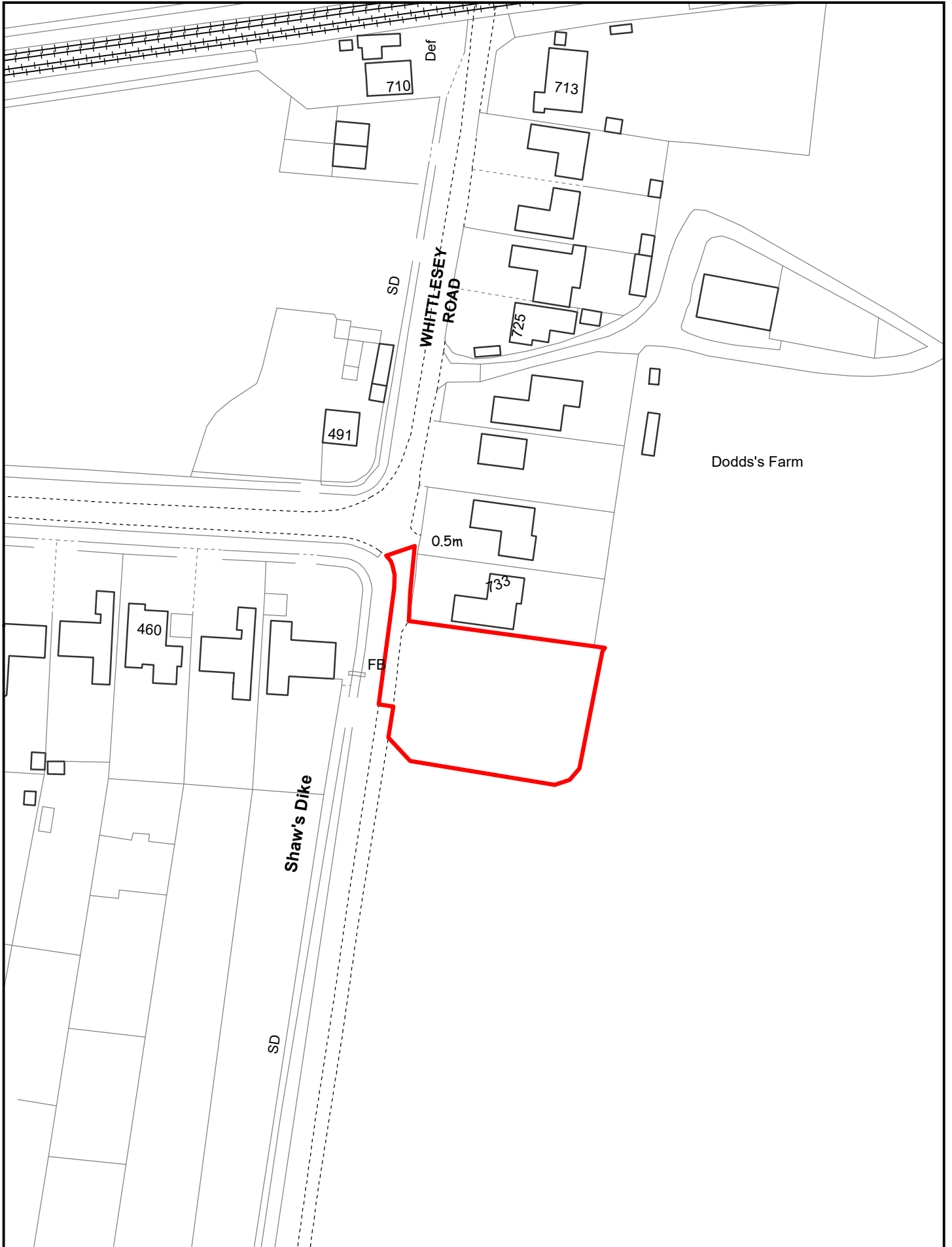
11 CONCLUSIONS

It is considered that the proposal does not accord with the requirements of Policy LP3 and LP12 in respect of the Settlement Hierarchy in that is located outside the built framework of Turves. Furthermore, development at this site would be and will encroach into the countryside at detriment to the rural character of the area in contravention of Policy LP12 and Policy LP16(d). In addition, the application included no details in respect of the Sequential or Exception tests and is therefore contrary to Policy LP14 and the adopted Cambridgeshire Flood and Water SPD or Section 14 of the NPPF. As such, the recommendation must be one of refusal.

12 RECOMMENDATION

Refuse, for the following reasons;

1	Policy LP3 of the Fenland Local Plan (2014) sets out the settlement hierarchy within the district, and defines Turves as a 'small village' where development may be permitted on its merits but normally limited in scale to residential infilling. Policy LP12 seeks to support development that does not harm the character of the countryside. Policy LP16 (d) of the Fenland Local Plan (2014) and Policy DM3 of Delivering and Protecting High Quality Environments in Fenland Supplementary Planning Document (2014) requires development to deliver and protect high quality environments through, amongst other things, making a positive contribution to the local distinctiveness and character of the area. The site does not represent residential infilling as it extends into undeveloped land beyond the built form of the settlement. Development on this land would be to the detriment of the character and appearance of the rural area as it would directly contradict the current settlement pattern and would arguably create a precedent for further development into the open countryside that would erode the surrounding rural character. As such, the proposal would be contrary to the requirements of Policies LP3, LP12, LP16(d) and DM3 (2014).
2	Policy LP14 of the Fenland Local Plan, Section 14 of the National Planning Policy Framework (2019) and Cambridgeshire Flood and Water Supplementary Planning Document (2016) require development proposals to adopt a sequential approach to flood risk from all forms of flooding, and Policy LP14 states that development in an area known to be at risk will only be permitted following the successful completion of a Sequential Test, an Exception Test, and the demonstration that the proposal meets an identified need and appropriate flood risk management. The application does not include evidence in respect of the sequential or exception tests and therefore fails to provide demonstrable evidence that the scheme would be acceptable in respect of flood risk. The proposal is therefore contrary to policy LP14 of the Fenland Local Plan (2014), Section 14 of the National Planning Policy Framework (2019) and Cambridgeshire Flood and Water Supplementary Planning Document (2016).



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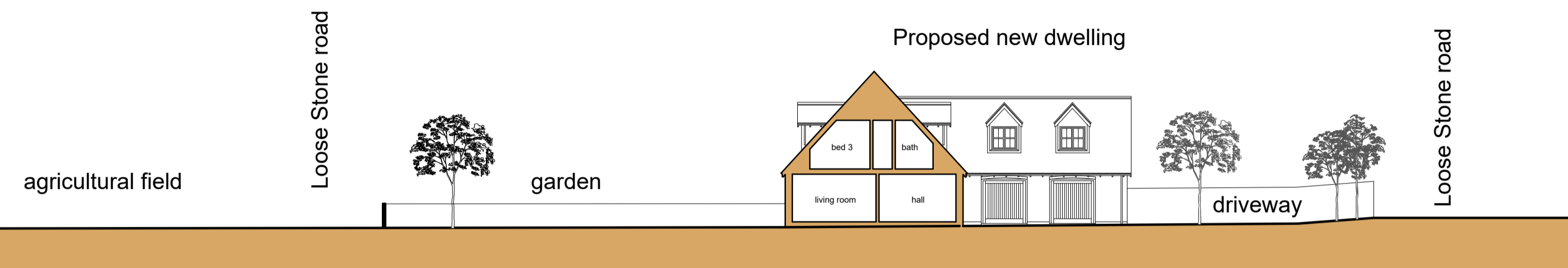
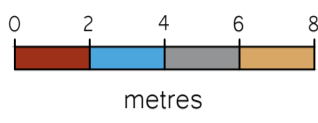
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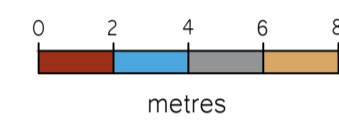




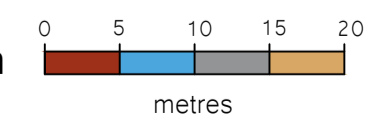
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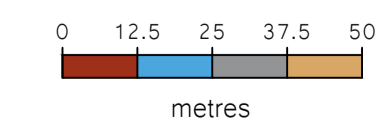
Indicative Site Section (A-A)
Scale: 1:200



Indicative Site Plan
Scale: 1:500



Location Plan
Scale: 1:1250



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

CONSTRUCTION DESIGN & MANAGEMENT REGULATIONS 2015

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 as issued to the Principal Designer.

SITE PLAN KEY

- Un-surveyed buildings taken from OS map
- Un-surveyed vegetation
- Indicates 1.2m high post and rail fence
- Indicates proposed dwellings
- Indicates proposed trees

Status
FOR COMMENT



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Job Title Proposed 2No. Dwellings Land South of 733 Whittlesey Road, March For: Mr and Mrs White	Date September 2021	Drawn by GS
Drawing Title Planning Permission	Job No. SE-1704	Checked by GE
Dwg No. PP1000	Sheet Size A1	Revision A