
F/YR21/1439/O

Applicant: Mr R Hirson

**Agent : Jordan Trundle
Peter Humphrey Associates Ltd**

Land West Of 78-88, Station Road, Manea, Cambridgeshire

Erect up to 4no dwellings (outline application with all matters reserved)

Officer Recommendation: Refuse

Reason for Committee: Deferred by Members at Committee on 27 July 2022.

1 EXECUTIVE SUMMARY

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| <p>1.1 The application is for the erection of 4 dwellings (outline application) with all matters reserved for future consideration. The proposal site is located at the junction of Station Road and Wimblington Road in Manea.</p> <p>1.2 Members deferred the application to allow further information to be submitted in relation to the two proposed reasons for refusal relating to flood risk and ecology.</p> <p>1.3 A Sequential and Exception Test Report has been received and assessed by Officers. It is considered to fail to demonstrate that there are no other sites within Manea at a lower risk of flooding. Therefore, this proposed reason for refusal remains.</p> <p>1.4 A Preliminary Ecological Appraisal dated September 2022 has been received and assessed by Officers. Subject to conditions, Officers are able to remove this proposed reason for refusal</p> <p>1.5 The recommendation is therefore for refusal as the proposal would be contrary to Policy LP14 of the Fenland Local Plan (2014), NPPF(2021) and Section 4 of the Cambridgeshire Flood & Water Supplementary Planning Document (2016).</p> |
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2 INTRODUCTION

- 2.1 Attached is the Committee Report considered at the 27 July 2022 Meeting. The application was recommended for refusal for two reasons: 1) the development site is in Flood Zone 3, an area at the highest risk of flooding. The applicant had not demonstrated conclusively that there are no other reasonably available sites appropriate for the proposed development in areas at a lower risk of flooding and not shown any wider community benefits of the development and therefore the development failed the Sequential and Exception Tests; and 2) No ecology information was submitted with the application to allow consideration of the

impacts on protected species, despite the site being bordered by ditches on three sides and the indicated access to the development being across one of these.

- 2.2 A Sequential and Exception Test Report was received with an assessment of other sites in Manea benefitting from planning permission for residential development.
- 2.3 A Preliminary Ecological Appraisal dated September 2022 was also received and sets out the findings of a survey of protected species undertaken in August 2022.
- 2.4 The submitted information can be found at:
[F/YR21/1439/O | Erect up to 4no dwellings \(outline application with all matters reserved\) | Land West Of 78-88 Station Road Manea Cambridgeshire \(fenland.gov.uk\)](#)

3 POLICY FRAMEWORK (in addition to Policies listed in 27 July 2022 report)

Emerging Local Plan

- 3.1 The Draft Fenland Local Plan (2022) was published for consultation between 25th August 2022 and 19th October 2022. All comments received will be reviewed and any changes arising from the consultation will be made to the draft Local Plan.
- 3.2 As this event occurred after the 22 July Committee, it is appropriate to make reference to it in this addendum. However, 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
LP24: Natural Environment;
LP32 Part A: Flood Risk; and
LP49: Residential Site Allocations in Manea;

4 CONSULTATIONS

PCC Wildlife Officer 22.09.2022

The Preliminary Ecological Appraisal (PEA) outlines how the site as it is has little to no biodiversity value outline of the vegetation surrounding the ditches. The proposed site layout already provides suitable standoffs for these areas. As such I agree with the PEA that the site has no immediate negative ecological impacts. However, this is reliant on the recommendations within section 8 being followed. The conditions below have been given as to ensure that those recommendations are enacted.

Recommendation: The application scheme is acceptable but only if conditions are imposed.

1. *Notwithstanding the submitted details, no development shall take place until a scheme for the soft landscaping of the site has been created and approved in writing by the Local Planning Authority. The scheme shall be updated to include the following details:*

-All ecological enhancements, mitigation and compensation as recommended within the Preliminary Ecological Appraisal (Phillip Parker Associates Ltd, September 2022);

-Planting plans to all public areas, retained hedge and trees, species, numbers, size and density of planting;

-Boundary treatments.

Development shall be carried out in accordance with the submitted details and at the following times:

Any trees, shrubs or hedges forming part of the approved landscaping scheme that die, are removed or become diseased within five years of the implementation of the landscaping scheme shall be replaced during the next available planting season by the developers, or their successors in title with an equivalent size, number and species to those being replaced. Any replacement trees, shrubs or hedgerows dying within five years of planting shall themselves be replaced with an equivalent size, number and species.

2. No development shall take place (including demolition, ground works, vegetation clearance) until a construction environmental management plan (CEMP: Biodiversity) has been submitted to and approved in writing by the local planning authority. The CEMP (Biodiversity) shall include the following:

- a) Summary of potentially damaging activities.*
- b) Identification of "biodiversity protection zones".*
- c) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements) including ensuring no Non-Native Invasive Species are spread across the site.*
- d) The location and timing of sensitive works to avoid harm to biodiversity features.*
- e) The times during construction when specialist ecologists need to be present on site to oversee works.*
- f) Responsible persons and lines of communication.*
- g) The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person.*
- h) Use of protective fences, exclusion barriers and warning signs.*

The approved CEMP shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details, unless otherwise agreed in writing by the local planning authority.

Informative -

Where it is intended to create semi-natural habitats, all species used in the landscaping schedules shall be locally native species of local provenance unless otherwise agreed in writing with the local planning authority.

Planning Policies/Legislation:

The Council is required to have regard to the safeguarding of species and habitats protected under UK, European and International legislation when determining all planning applications. The main legislation includes:

- the Wildlife and Countryside Act 1981 (as amended)*
- the Hedgerows Regulations 1997*
- the Conservation of Habitats & Species Regulations 2017 (The Habitats Regulations)*
- the Protection of Badgers Act 1992 and*
- Wild Mammals (Protection) Act 1996*

Under the Wildlife and Countryside Act 1981 (as amended) it is an offence to take, damage or destroy the nest of any wild bird while that nest is in use or being built. Trees and scrub are likely to contain nesting birds between 1 March and 31 August. Trees within the application should be assumed to contain nesting birds

between the above dates unless a survey has shown it is absolutely certain that nesting birds are not present.

Under the Wildlife and Countryside Act 1981 (as amended) it is an offence to intentionally kill, injure or take a great crested newt or intentionally or recklessly destroy or disturb a great crested newt breeding or resting place. Great crested newts are likely to be hibernating in tree root systems, underground crevices, mammal burrows, rubble piles or old walls between October and February. Great crested newts will become active both terrestrially and within ponds between March and the middle of June. Any works impacting aquatic and terrestrial breeding and resting places which is used by great crested newts at any time needs to be certain that great crested newts are not present before the works take place.

Government Circular ODPM 06/2005 Biodiversity & Geological Conservation:

The advice given above takes into account the following guidance:

Paragraph 98 states “the presence of a protected species is a material consideration when a planning authority is considering a development proposal that, if carried out, would be likely to result in harm to the species or its habitat. Local authorities should consult Natural England before granting planning permission. They should consider attaching appropriate planning conditions or entering into planning obligations under which the developer would take steps to secure the long-term protection of the species. They should also advise developers that they must comply with any statutory species’ protection provisions affecting the site concerned. For European protected species (i.e. those species protected under the Habitats Regulations) further strict provisions apply, to which planning authorities must have regard”.

Paragraph 99 states “it is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before the planning permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision. The need to ensure ecological surveys are carried out should therefore only be left to coverage under planning conditions in exceptional circumstances, with the result that the surveys are carried out after planning permission has been granted”.

5 ASSESSMENT

Flood Risk

- 5.1 In accordance with Section 14 of the NPPF (2019), Policy LP14 of the Fenland Local Plan 2014, the requirements of the Cambridgeshire Flood and Water Supplementary Planning Document (2016) and Policy LP32 of the Emerging Local Plan, it is for the applicant to demonstrate through an assessment that the Sequential Test has been met.
- 5.2 On 25.08.2022 the government published further guidance and clarification with regard to: *The sequential approach to the location of development*
<https://www.gov.uk/guidance/flood-risk-and-coastal-change>
- 5.3 The approach is designed to ensure that areas at little or no risk of flooding from any source are developed in preference to areas at higher risk. This means avoiding, so far as possible, development in current and future medium and high flood risk areas considering all sources of flooding including areas at risk of surface water flooding. Avoiding flood risk through the sequential test is the most effective way of addressing flood risk because it places the least reliance on measures like flood defences, flood warnings and property level resilience features. Even where a flood risk assessment shows the development can be made safe throughout its

lifetime without increasing risk elsewhere, the sequential test still needs to be satisfied.

- 5.4 The Sequential Test ensures that a sequential, risk-based approach is followed to steer new development to areas with the lowest risk of flooding, taking all sources of flood risk and climate change into account. Where it is not possible to locate development in low-risk areas, the Sequential Test should go on to compare reasonably available sites within a defined area set by local circumstances relating to the catchment area for the type of development proposed. In this instance the search area is the settlement of Manea, as set out by the Council in February 2018.
- 5.5 It is the applicant's responsibility to provide evidence that there are no other development sites in Flood Zone 1 within Manea which are reasonably available and appropriate for the proposed development. Reasonably available sites' are those in a suitable location for the type of development with a reasonable prospect that the site is available to be developed at the point in time envisaged for the development.
- 5.6 These could include a series of smaller sites and/or part of a larger site if these would be capable of accommodating the proposed development. Such lower-risk sites do not need to be owned by the applicant to be considered 'reasonably available'.
- 5.7 The applicant's submitted report, specifically in relation to the sites within Flood Zone 1 (and therefore sequentially preferable), has been considered by Officers and the following comments are made.
 - The report discards sites approved for a single dwelling as being "*not comparable*". This is not in accordance with government guidance as set out in Paragraph 4.6. None of these sites are considered to be "*reasonably available*" by Officers and can be discarded;
 - Two sites are identified in the applicant's report as being "*not comparable*" as they are for bungalows. However, Officers consider this is not a reason to exclude these sites from being sequentially preferable;
 - Two sites with permissions for 6 and 7 dwellings have been discarded as the applicant considers such "*small estate style development*" as "*non-comparable*". Again, with reference to Paragraph 4.6, this is not a reason to discard the site. Of the two sites only F/YR20/0118/O is considered by Officers to be reasonably available;
 - Finally, the site for 29 dwellings at Lavender Mill, Fallow Corner Drove (F/YR19/0958/O), has a for sale board and is therefore also considered to be reasonably available by Officers. Contrary to the applicant's assessment such sites must be considered as comparable and capable of accommodating the proposed development.
- 5.8 It is therefore considered for the above reasons that the Sequential Test has not been passed.
- 5.9 Notwithstanding the failure of the Sequential Test, if it had this been passed it would then be necessary for the application to pass the Exception Test, which requires a demonstration of wider sustainable benefits, such as:

- a) The development would provide wider sustainability benefits to the community that outweigh the flood risk; and
- b) The development will be safe for its lifetime taking account of the vulnerability of its users, without increasing flood risk elsewhere, and where possible, will reduce flood risk overall.

a) Wider sustainability benefits

5.10 Section 4.5.8 of the Cambridgeshire Flood and Water SPD sets out the sustainability themes and issues which development could help to address in order to achieve wider benefits, which are:

- Land and water resources;
- Biodiversity and green infrastructure;
- Landscape, townscape and historic environment;
- Climate change mitigation and renewable energy;
- Flood risk and climate change adaptation;
- Pollution;
- Healthy and inclusive and accessible communities
- Economic activity; or
- Transport.

5.11 Having regard to the scale and nature of this proposed development, it is likely be difficult to achieve wider benefits on such a scale. However, it is often possible to achieve benefits on smaller housing schemes through the inclusion of climate change mitigation and renewable energy features to a level which exceeds normal Building Regulations requirements. Measures proposed within the submitted document include:

- *Job creation;*
- *Increase use of the local surgery, schools and social facilities;*
- *Dwellings to benefit from triple glazing, Heat Source air pumps and PV Cells;*
- *Proximity to Railway Station; and*
- *Inclusion of bird nest boxes and bat boxes and other measures to promote biodiversity;*

5.12 It is considered that the proposal has the potential to pass part a) of the Exceptions Test.

Ecology

5.13 Policy LP16 (b) requires proposals for new development to protect and enhance biodiversity on and surrounding the proposal site, taking into account locally designated sites and the special protection given to internationally and nationally designated sites in accordance with policy LP19. Criteria (c) requires the retention and incorporation of natural and historic features of the site such as trees, hedgerows, field patterns, drains and water bodies.

5.14 The Preliminary Ecological Appraisal (PEA) outlines how the site as it is has little to no biodiversity value except for the vegetation surrounding the ditches. The proposed site layout already provides suitable standoffs for these areas. As such the Wildlife Officer considers the proposal would have no immediate, negative ecological impacts. However, this is reliant on the recommendations within section 8 of the PEA being followed and has recommended conditions to ensure these are

implemented. Subject to these conditions, the application is considered to comply with LP19 (c) and LP16 (b) of the Fenland Local Plan 2014.

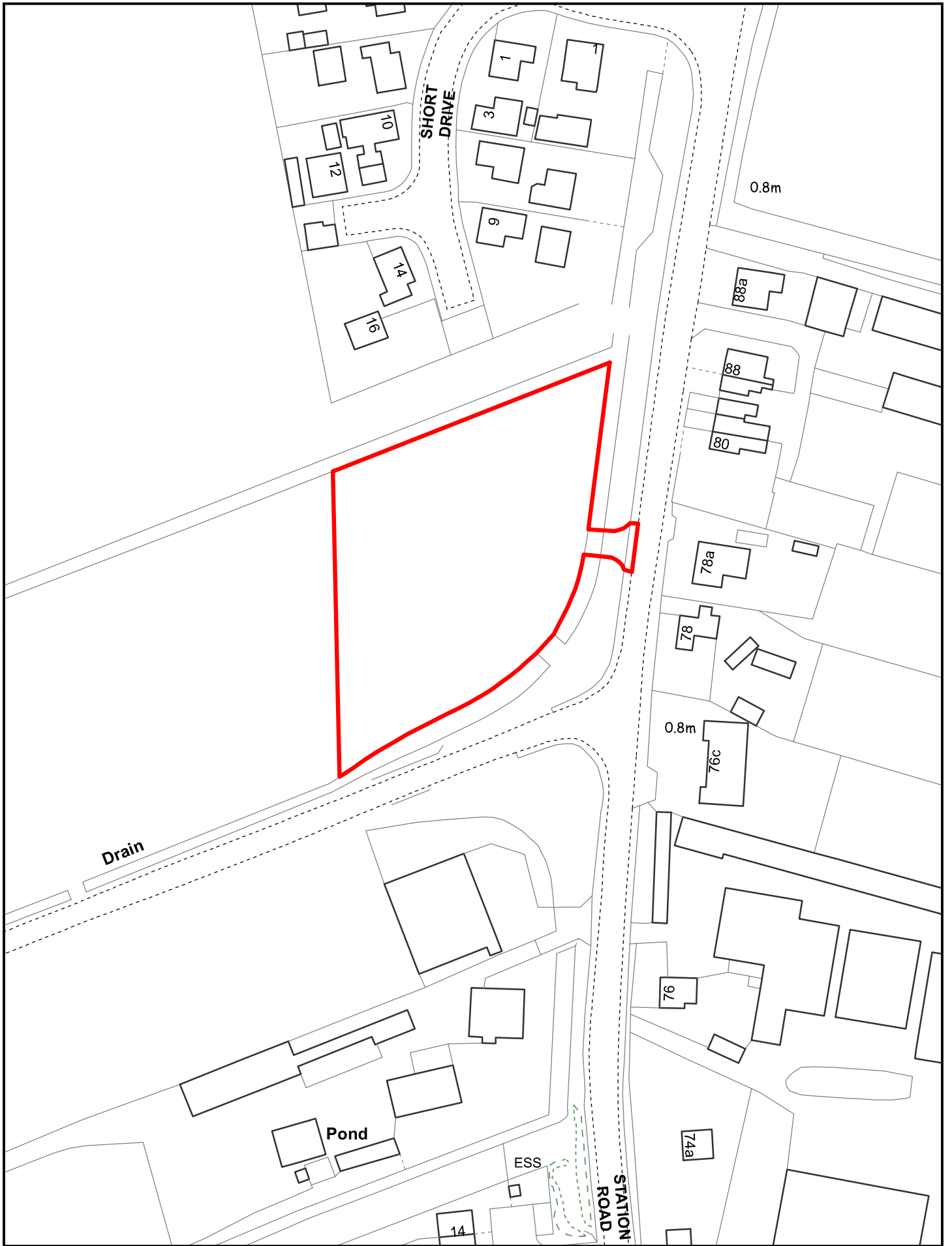
6 CONCLUSIONS

- 6.1 Members deferred the application to allow the applicant to submit further information to address the two reasons for refusal.
- 6.2 A Sequential and Exception Test Report has been received and assessed by Officers. It is considered to fail to demonstrate that there are no other sites within Manea at a lower risk of flooding. Therefore, this proposed reason for refusal remains.
- 6.3 A Preliminary Ecological Appraisal dated September 2022 has been received and assessed by Officers. Subject to conditions, Officers are able to remove this proposed reason for refusal.
- 6.4 The recommendation is therefore for refusal as the proposal would be contrary to Policy LP14 of the Fenland Local Plan (2014), NPPF(2021) and Section 4 of the Cambridgeshire Flood & Water Supplementary Planning Document (2016).

7 RECOMMENDATION

Refuse: for the following reason

1	The site is located within Flood Zone 3 where there is a high probability of flooding. The Sequential test for flood risk has not been adequately applied or met and consequently, the application fails to demonstrate that there are no other reasonably available sites with a lower probability of flooding that could accommodate the development. Allowing the proposed development could therefore place people and property at an increased risk, with no justification, of flooding contrary to Policy LP14 of the Fenland Local Plan (2014), NPPF(2021) and Section 4 of the Cambridgeshire Flood & Water Supplementary Planning Document (2016).
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Applicant: Mr R Hirson

**Agent : Jordan Trundle
Peter Humphrey Associates Ltd**

Land West Of 78-88, Station Road, Manea, Cambridgeshire

Erect up to 4no 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 application seeks a determination of the principle of residential development for up to 4 dwellings (outline application) with all matters reserved for future consideration. The proposal site is located at the junction of Station and Wimblington Roads in Manea.
- 1.2 The application site is located within Flood Zone 3, an area at the highest risk of flooding but the applicant has not demonstrated conclusively that there are no other reasonably available sites appropriate for the proposed development in areas at a lower risk of flooding and not shown any wider community benefits of the development and therefore the development fails the Sequential and Exception Tests.
- 1.3 No ecology information has been submitted with the application to allow consideration of the impacts on protected species, despite the site being bordered by ditches on three sides and the indicated access to the development being across one of these.
- 1.4 The recommendation is therefore for refusal of planning permission.

2 SITE DESCRIPTION

- 2.1 The proposal site consists of a 0.46ha parcel of land located at the corner of Station and Wimblington Roads in Manea. The site is currently agricultural land but has residential development to the North, East and to the South, with scattered agricultural buildings. The site is generally flat and has no trees. There are surface water drains located on the site
- 2.2 The site is located within Flood Zones 2 and 3 as defined by the Environment Agency maps.

3 PROPOSAL

- 3.1 The application proposes the erection of up to 4no dwellings (outline application with all matters reserved)

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

<https://www.publicaccess.fenland.gov.uk/publicaccess/applicationDetails.do?activeTab=documents&keyVal=R0EJTRHE01900>

4 SITE PLANNING HISTORY

No formal planning history.

5 CONSULTATIONS

- 5.1 **Parish Council:** *No Objection. Please seek s106 benefits.*
- 5.2 **Natural England:** *Based on the plans submitted, Natural England considers that the proposed development will not have significant adverse impacts on statutorily protected nature conservation sites or landscapes.*
- 5.3 **CCC Highways:** *I have no objections subject to the developer being able to demonstrate that visibility splays of 2.4m x 120m are achievable. The 59m splay is not appropriate unless the developer has supporting speed survey results that 85% percentile speeds are 37mph.*
- 5.4 **Environment Agency:** *We have no objection to the proposed development but wish to make the following comments.*

We have reviewed the submitted Flood Risk Assessment (FRA) with regard to tidal and main river flood risk sources only. The Internal Drainage Board should be consulted with regard to flood risk associated with their watercourses and surface water drainage proposals. We have no objection but strongly recommend that the development be carried out in accordance with the submitted flood risk assessment undertaken by Ellingham Consulting Ltd, (ref: ECL0561/Peter Humphrey Associates, dated September 2021) and the following mitigation measures it details:

- Finished floor levels shall be set no lower than 800 mm above existing ground level.*
- Flood resistant measures will be incorporated up to 600 mm above finished floor levels.*
- There shall be no ground floor sleeping accommodation.*

Advice for the LPA

In accordance with the National Planning Policy Framework (NPPF) paragraph 162, development should not be permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower risk of flooding. It is for the Local Planning Authority to determine if the Sequential Test has to be applied and whether or not there are other sites available at lower flood risk as required by the Sequential Test in the NPPF. Our flood risk standing advice reminds you of this and provides advice on how to do this. With regard to the second part of the Exception Test, your Authority must be satisfied with regards to the safety of people (including those with restricted mobility), the ability of people to reach places of safety, including safe refuges within buildings, and the ability of the

emergency services to access buildings to rescue and evacuate people. In all circumstances where flood warning and evacuation are significant measures in contributing to managing flood risk, we expect local planning authorities to formally consider the emergency planning and rescue implications of new development in making their decisions. We strongly recommend that you consult your Emergency Planner on the above issues.

- 5.5 Environmental Health:** *The Environmental Health Team note and accept the submitted information and have 'No Objections' to the proposal as it is unlikely to have a detrimental effect on local air quality or the noise climate.*

Our records indicate there is unlikely to be a presence of contamination at the application site, but a condition is recommended.

- 5.6 Middle Level Commissioners:** No response received

5.7 Local Residents/Interested Parties

Three objections have been received from residents of Short Drive and Station Road contending:

- that the development would cause flooding
- result in a loss income,
- prejudice highways safety,
- would disrupt electricity and broadband,
- overwhelm drainage and
- affect wildlife.

Supporters

Nine responses have been received in support of the application (three from residents of Horseway, two from Old Dairy Yard and one each from Cox Way, Westfield Road, high Street and Parkview Lane) on the following grounds:

- beneficial to the Village,
- increase the appeal of the village,
- would be in keeping with the residential character of the area,
- access to the train station,
- would bring more families to help sustain the village.

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)
National Planning Practice Guidance (NPPG)
National Design Guide 2019

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

LP12– Rural Area Development Policy

LP13 – Supporting and Mitigating the Impact of a Growing District

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

LP17 – Community Safety

LP19 – The Natural Environment

Delivering and Protecting High Quality Environments in Fenland SPD (July 2014)

8 KEY ISSUES

8.1 The key issues to be addressed are:

- Principle of Development
- Visual Impact
- Residential Amenities
- Highway Safety
- Flooding
- Ecology
- Other Considerations

These are considered in turn below.

9 BACKGROUND

9.1 Pre-application advice was sought in relation to this development in 2019. Officers advised that the site was in Flood Zone 3 and that a sequential test would be required to be undertaken; access via an additional culvert of the drain was perhaps not appropriate; and that the site was at a prominent entrance to the village and that consideration would need to be given to appropriate and sympathetic design.

10 ASSESSMENT

Principle of Development

10.1 Local Plan Policy LP3 defines Manea as a Growth Village where more limited development and service provision than that which is appropriate to the Market Towns would be suitable, however this would be acceptable in the form of small village extensions. Policy LP12 Part A sets out where such development may be acceptable such as it being in or adjacent to the developed footprint of the settlement, not adversely impacting the character of the countryside and being in keeping with the core shape of the settlement. In addition, Local Plan Policy LP12 also seeks to involve the community in planning decisions by requiring clear evidence of community support for development exceeding the specified threshold. Part A of LP12 of the Local Plan, clearly states that if a proposal within or on the edge of the village would, in combination with other development, built or committed to be built since April 2011 increase the number of dwellings in a growth

village by 15% or more, the proposal should demonstrate evidence of clear local community support for the scheme generated through a proportionate pre-application consultation exercise. This 15% threshold has clearly been exceeded for Manea owing to the number of consented dwellings since April 2011.

- 10.2 The application site forms part of an agricultural field at the entrance to the settlement, bounded to the north by the workplace home development of Charlemont Drive. To the south on the opposite side of Wimblington Road is a group of commercial buildings with further linear residential development to the south. On the opposite side of Station Road is loose knit linear residential development. Consequently, it is considered that while the site forms an attractive entrance to the village it would be difficult to argue that the principle of residential development was unacceptable, given these surroundings.
- 10.3 Policy LP12 further provides that if additional number of dwellings built since 2011 within or on the edge of a growth village is 15% or more, then the proposal should have demonstrable evidence of clear local community support for the scheme. Manea has already exceeded its 15% but no deliberate community support exercise has been submitted which would be contrary to LP12. However, an appeal decision received in respect of an application that was refused purely on this basis (F/YR14/0838/O) indicates that the threshold considerations and requirement for community support should not result in an otherwise acceptable scheme being refused. Against this backdrop the absence of a deliberate community support does not render the scheme unacceptable in planning terms.
- 10.4 As such the principle of this development is considered to be supported by Policies LP3 and LP12 of the Fenland Local Plan (2014).

Visual Impact

- 10.4 Paragraph 126 of the National Planning Policy Framework 2021 states that good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities. This is further reflected in Local Plan Policy LP16 which seeks to deliver and protect a high-quality environment for those living and working within the district.
- 10.5 It is considered that the development of the site would visually read as part of the existing village and not appear incongruous or as an encroachment into the countryside. As described above the site is considered to form an attractive entrance to the village and a such a well-designed scheme incorporating sympathetic landscaping would be required to ensure the quality of this gateway is maintained.
- 10.6 Therefore, subject to appropriate design, layout, and landscaping which would be addressed at the Reserved Matters stage, the visual impact could be acceptable in accordance with Policy LP16 and the NPPF (2021).

Residential Amenity

- 10.7 Local Plan Policy LP16 seeks to provide and protect comforts that the general environment provides and to this end ensures that development does not adversely impact on the amenity of neighbouring users owing to noise, light pollution, loss of privacy and loss of light.
- 10.8 The proposed development is in outline form with all matters reserved but from the submitted indicative plan, it would appear that the development, subject detailed design and layout, would relate appropriately with the dwellings around it. The

scale and external appearance of the scheme is subject to subsequent approval, but it is considered that there is sufficient distance from the neighbouring gardens to be able to accommodate this level of development in this location without compromising residential amenity.

- 10.9 The proposal allows for the provision of adequately sized garden areas to serve each dwelling unit together with some communal greenspaces at the front of the development to provide soft landscaping.
- 10.10 Therefore, subject to detailed design and layout, the scheme would provide adequate residential amenities for future occupiers and protect those enjoyed by existing neighbouring occupiers in accordance with Policy LP16 and

Highway Safety

- 10.11 Fenland Local Plan Policy LP16 states that new development will only be permitted if it can be demonstrated that safe and convenient pedestrian and vehicle access to and from the public highway as well as adequate space for vehicle parking, turning and servicing would be achieved.
- 10.12 The Highway Authority have no objection to the proposed scheme subject to the provision of appropriate visibility splays. There is also adequate space on the site to accommodate a 5m wide access and sufficient space within the site to provide adequate parking and turning facilities.
- 10.13 The scheme therefore is considered acceptable and complies with Policy LP15 in this regard.

Flooding

- 10.14 Paragraph 159 of the NPPF (2021) states that inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk (whether existing or future). Where development is necessary in such areas, the development should be made safe for its lifetime without increasing flood risk elsewhere. In the same vein, Local Plan Policy LP14 recommends the adoption of sequential approach to flood risk from all forms of flooding and this is reinforced by the Cambridgeshire Flood and water SPD.
- 10.15 The applicant submitted a flood risk assessment undertaken by Ellingham Consulting Ltd in support of the development which was considered by the Environment Agency (EA). The EA recommends that the development be carried out in strict accordance with the submitted flood risk assessment undertaken by Ellingham Consulting Ltd, (ref: ECL0561/Peter Humphrey Associates, dated September 2021) and that the Middle Level Commissioners (MLC) be consulted. The MLC were consulted but not response has been received. The EA also set out that it is for the Local Planning Authority to be satisfied by the Sequential and Exception Tests.
- 10.16 The submitted Flood Risk Assessment does not provide any sequential test instead referring to the site being "protected by the Middle Level Barrier Bank which was not considered during the preparation of the Environment Agency Flood Maps". When the Middle Level Barrier Bank is considered, the applicant contends that the development would pass the sequential test. Clearly this is not sufficient to comply with the Cambridgeshire Flood and Water SPD which is explicit in setting out that flood defences should not be taken into consideration when undertaking the Sequential Test. The application is therefore considered to have failed the Sequential Test on this basis.

- 10.17 As the application does not pass the Sequential Test the Exception Test is not applicable. However, for the sake of completeness, it is considered that an assessment of the submitted information in this regard should be undertaken. The applicant has merely quoted the number of housing units that are required over the Local Plan period and concluded that the proposed dwellings would contribute towards achieving that target. The applicant claims that this is the wider benefit of this development. Again, the Cambridgeshire Flood and Water SPD is clear, that the general provision of housing by itself would not be considered a wider sustainability benefit. Therefore, as well as failing the Sequential Test this application would also not pass the Exception Test.
- 10.18 Based on the above assessment, the applicant has been unable to show that there are no other reasonably available sites appropriate for the proposed development in areas at a lower risk of flooding and has not demonstrated any wider community benefits of the development and therefore the development fails the Sequential and Exception Tests and allowing the development would be contrary to Local Plan Policy LP14, the adopted SPD and paragraphs 159 and 162 of the NPPF(2021)

Ecology

- 10.19 Policy LP16 (b) requires proposals for new development to protect and enhance biodiversity on and surrounding the proposal site, taking into account locally designated sites and the special protection given to internationally and nationally designated sites in accordance with policy LP19. Criteria (c) requires the retention and incorporation of natural and historic features of the site such as trees, hedgerows, field patterns, drains and water bodies.
- 10.20 The application site comprises an agricultural field bounded by a hedgerow to the north and ditches to three sides and the access to the development is indicated as being across one of these ditches.
- 10.21 Ecological surveys and if necessary, species surveys, are required to be carried out pre-determination. Section 40 of the Natural Environment and Rural Communities Act 2006 places a public sector duty upon local planning authorities to conserve biodiversity. Section 180 of the NPPF states that when determining planning applications local planning authorities should refuse planning permission if significant harm to biodiversity resulting from development cannot be avoided (through locating on an alternative site with less impact), adequately mitigated or as a last resort, compensated for. Such consideration requires sufficient ecological investigation to assess if there are any particular protected species present so that they can be taken into account in the consideration of the proposals.
- 10.22 Policy LP19 of the local plan states that planning permission should be refused for development that would cause a demonstrable harm to a protected species or habitat unless the need for and public benefits of the development clearly outweigh the harm and mitigation, or compensation measures can be secured to offset the harm.
- 10.23 No ecological surveys have been undertaken and submitted with the application, and the bio-diversity checklist submitted with the application has answered 'no' to the questions regarding the proposal affecting a ditch, which the development clearly would. It is therefore not possible, for the local planning authority to

undertake its duty to conserve biodiversity due to a lack of information. The application should be refused for this reason.

Other Matters

- 10.24 The Parish Council have made reference to seeking Section 106 benefits. However the number of dwellings proposed falls below the number of dwellings (10) required to trigger the consideration of such an agreement.

11 CONCLUSIONS

- 11.1 The proposed development would be of a scale that is in keeping with the area and, subject to layout, design and finishes, would not detract from the character of the site and the area. However, the site is located within Flood Zone 3 and the applicant has not shown that the development is Sequentially acceptable or of wider community benefit.
- 11.2 In addition, no ecological information has been submitted to allow an informed decision to be made as to whether protected species would impacted by the development or any mitigation that may be required as a result.
- 11.3 As such the application is considered to conflict with the NPPF, policies of the Local Plan and the Flood and Water SPD

12 RECOMMENDATION

Refuse; for the following reasons:

1	The site is located within Flood Zone 3 where there is a high probability of flooding. The Sequential test for flood risk has not been adequately applied or met and consequently, the application fails to demonstrate that there are no other reasonably available sites with a lower probability of flooding that could accommodate the development. In addition, the Exception Test has also not been passed. Allowing the proposed development could therefore place people and property at an increased risk, with no justification, of flooding contrary to Policy LP14 of the Fenland Local Plan (2014), NPPF(2021) and Section 4 of the Cambridgeshire Flood & Water Supplementary Planning Document (2016).
2	The application site is bordered on three sides by ditches which are identified as having the potential to be habitat for protected species and indicates access to the development over one of these. No ecological surveys or evaluation have been undertaken to accompany the application. As such the local planning authority is unable to undertake its duty to conserve biodiversity due to this lack of information. The application is therefore contrary to policies LP16 (b) and LP19 of the Fenland Local Plan which seek to ensure that new development protects and enhances biodiversity including protected species and their habitats.