
APPLICATION NO: F/YR21/1343/O

SITE LOCATION: Land East Of 137 Upwell Road March

UPDATE

1. 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.
2. The application site comprises an agricultural field bounded by a ditch to the northern side and the accesses to the development are indicated as being across this ditch.
3. 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.
4. 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.
5. 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. (Q2 and Q6). 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.

PROPOSED FOURTH REASON FOR REFUSAL:

The application site is bordered to the north by a ditch which are identified as having the potential to be a habitat for protected species and indicates accesses to the development is over this ditch. 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 2014 which seek to ensure that new development protects and enhances biodiversity including protected species and their habitats.

6. Part of the site (illustrative Plots 6 to 9) are located within **Flood Zones 2 and 3** and therefore the reason for refusal should include reference to Flood Zone 2 as well as Flood Zone 3.

PROPOSED AMENDED SECOND REASON FOR REFUSAL:

Part of the site (illustrative Plots 6 to 9) are located within Flood Zones 2 and 3 where there is a high probability of flooding. The Sequential Test for flood risk has not been passed as there are likely to be available sites within March with a lower probability of flooding that could accommodate the four plots. Allowing the proposed development could therefore place people and property at an increased risk, with no justification, contrary to Policy LP14 of the Fenland Local Plan (2014), NPPF and Section 4 of the Cambridgeshire Flood & Water SPD (2016).

Resolution: No change to the recommendation which is to refuse the application, but with an additional (4th) reason for refusal and the amendment to reason for refusal 2, as per Section 11 of Agenda item 11 on page 197.