

Applicant: Mr D Moore

**Agent : Mrs Gemma Lawrence
Swann Edwards Architecture Limited**

Land North Of Windy Willows, Church Lane, Tydd St Giles, Cambridgeshire

Erect up to 2 x dwellings and the formation of an access (outline application with matters committed in respect of access)

Officer recommendation: Refuse

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

1 EXECUTIVE SUMMARY

- | | |
|-----|---|
| 1.1 | This application proposes the delivery of up to 2 dwellings on a site which is outside the built form of the designated 'small village' of Tydd St Giles, including the formation of a vehicular access. |
| 1.2 | The scheme is contrary to Policies LP3, LP12, LP14, LP15, and LP16 in the Local Plan given that it is not infill and does not demonstrate compliance with flood risk policy. |
| 1.3 | It is contended that real and actual character harm would arise through the consolidation of the built form and the extension of existing linear features within an area which currently serves to mark the gentle transition between the open countryside and the built form of the village this being clearly at odds with Policy LP12 of the Fenland Local Plan (2014) and contrary to the aims of Policy LP16 (d) which focuses on the need for development to enhance its setting and respond to the character of the local built environment. |
| 1.4 | The application site is in Flood Zone 3 and 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 of the Local Plan, 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. |
| 1.5 | Furthermore, the application fails to demonstrate that suitable visibility splays can be achieved and accordingly that safe egress from the site is possible in accordance with Policy LP15 of the Fenland Local Plan. |
| 1.6 | There are fundamental policy issues arising relating to this proposal, as highlighted within this report and accordingly, the scheme must be recommended for refusal. |

2 SITE DESCRIPTION

- 2.1 The application site comprises part of a parcel of agricultural land situated to the east side of Church Lane, Tydd St Giles. To the south of the site is the residential property 'Windy Willows' whilst to the north and west lies open land. To the west also lies a small agricultural building.
- 2.2 The site is contained by dense hedging to Church Lane (east) and the north with post and rail fencing to the south and east. A ditch culvert lies between the hedging and the highway along the eastern boundary.
- 2.3 The site is within Flood Zone 3, the highest area of risk.

3 PROPOSAL

- 3.1 This application seeks outline planning permission with all matters, except for access, reserved for future consideration in respect of the erection of up to 2 dwellings.
- 3.2 The illustrative plans show two detached dwellings, with rooms in the roof space, in a linear formation with access taken from a private shared drive off Church Lane.
- 3.3 Full plans and associated documents for this application can be found at: [F/YR22/0966/O | Erect up to 2 x dwellings and the formation of an access \(outline application with matters committed in respect of access\) | Land North Of Windy Willows Church Lane Tydd St Giles Cambridgeshire \(fenland.gov.uk\)](https://fenland.gov.uk/F/YR22/0966/O | Erect up to 2 x dwellings and the formation of an access (outline application with matters committed in respect of access) | Land North Of Windy Willows Church Lane Tydd St Giles Cambridgeshire (fenland.gov.uk))

4 SITE PLANNING HISTORY

- 4.1 There is no recent history for this site however, there are two applications which were determined prior to the adoption of Fenland Local Plan 2014 and were therefore determined under the previous development plan.

F/YR12/0657/F	Erection of 4 x 3-bed 2-storey dwellings with attached single garages	Refused	19.11.2012
F/YR13/0183/F	Erection of 3 x 3-bed 2-storey dwellings with garages	Refused	03.05.2013

5 CONSULTATIONS

5.1 Tydd St Giles Parish Council

The members of the Parish Council considered this application at their recent meeting. They noted that the applicant has submitted two previous applications for residential development at this location, both of which were refused. Whilst the scale of the current application is less than those that came before, the fundamental issues remain, namely that it is unsustainable development in the open countryside, outside the core built form of the village, contrary to policies LP12 and LP3. The proposed development would be out of keeping with surrounding properties and therefore harmful to the character of the locality.

Members resolved not to support the application.

5.2 Environment Agency

We have reviewed the documents as submitted and we have no objections to the development proposed subject to the condition outlined below. Without this condition, the proposed development on this site poses an unacceptable risk to the environment and we would object to the application. Further information for the developer is provided below.

Flood Risk

The proposed development will only meet the National Planning Policy Framework's requirements in relation to flood risk if the following planning condition is included.

Condition

The development shall be carried out in accordance with the submitted flood risk assessment prepared by Geoff Beel Consultancy dated May 2022 for FOR PROPOSED RESIDENTIAL DEVELOPMENT AT CHURCH LANE, TYDD ST GILES, WISBECH, CAMBS and the following mitigation measures

- 1. Finished Floor Levels will be set 300mm above the existing ground level.*

These mitigation measures shall be fully implemented prior to occupation and subsequently in accordance with the scheme's timing/phasing arrangements. The measures detailed above shall be retained and maintained thereafter throughout the lifetime of the development.

Reason

To reduce the risk of flooding to the proposed development and future occupants.

Advisory

Flood resistance and resilience - advice to LPA/applicant

We strongly recommend the use of flood resistance and resilience measures. Physical barriers, raised electrical fittings and special construction materials are just some of the ways you can help reduce flood damage. To find out which measures will be effective for this development, please contact your building control department. If you'd like to find out more about reducing flood damage, visit the Flood Risk and Coastal Change pages of the planning practice guidance. Further guidance on flood resistance and resilience measures can also be found in:

Government guidance on flood resilient construction

<https://www.gov.uk/government/publications/flood-resilient-construction-of-new-buildings>

5.3 North Level District I.D.B

Whilst we have no objections in principle to the above application. Land Drainage Consent will be required to form the new access to the site.

5.4 CCC Highways

Highways have no objections to the above application, in principle.

Please note, the access should be sealed and to be drained away from the highway in a bound material for a minimum of 5m back from the existing footway. The vehicular access shall 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. Please demonstrate a method at the boundary of the private and public highway of the access.

The proposed access requires visibility splays of 2.4m x 120m for both directions be detailed to be within the existing highway or the applicant's control. If this is unachievable, the applicant should provide speed survey data to reduce the Y-distance, as may be necessary to support the application.

Subject to this the future reserved matters application to provide access details and car parking and turning arrangements that meets FDC parking standards.

Informatives

Works in the Public Highway

This development may involve work to the public highway that will require the approval of the County Council as Highway Authority. It is an OFFENCE to carry out any works within the public highway, which includes a public right of way, without the permission of the Highway Authority. Please note that it is the applicant's responsibility to ensure that, in addition to planning permission, any necessary consents or approvals under the Highways Act 1980 and the New Roads and Street Works Act 1991 are also obtained from the County Council.

5.5 FDC Environmental Health

'No Objections' to the proposed scheme as it is unlikely to affect or be affected by the existing noise or air climate. Given the applications sites previous pastoral use contamination is also unlikely to be an issue at this location.

5.6 Local Residents/Interested Parties

5 letters of objection have been received from 5 households within Tydd St Giles which raised the following summarised concerns:

- Previous reasons for refusal remain
- Contrary to LP3, Lp12 and LP16 of the Local Plan
- Site is within the open countryside, outside the settlement boundary, and is not infill
- Out of character
- No community benefit, not the type of houses the village needs
- Within Flood Zone 3
- Flawed sequential test
- Considered unsuitable as an allocated site for the new Local Plan
- Would set a precedent for development along this road
- Highway safety concerns, particularly visibility
- Archaeological concerns raised under previous applications

16 letters of support have been received from 14 households within Tydd St Giles which made the following summarised comments:

- In keeping with the houses in the area, good additions
- There are existing properties nearby
- No adverse impacts, will not infringe upon anyone's privacy
- Help support local businesses and the school
- Access will not interfere with the road, adjacent accesses which have no problems with visibility
- Need more of these homes in the village and the village needs to grow

6 STATUTORY DUTY

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 2021

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
LP12 – Rural Areas Development Policy
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
LP19 – The Natural Environment

Emerging Local Plan

The Draft Fenland Local Plan (2022) was published for consultation between 25th August 2022 and 19 October 2022, all comments received will be reviewed and any changes arising from the consultation will be made to the draft Local 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
LP7: Design
LP18: Development in the Countryside
LP20: Accessibility and Transport
LP22: Parking Provision
LP28: Landscape
LP32: Flood and Water Management

8 KEY ISSUES

- **Principle of Development**
- **Flood Risk**
- **Access and Parking**
- **Character, Design and Layout**
- **Residential Amenity**

9 ASSESSMENT

Principle of Development

- 9.1 The scheme falls to be assessed under Fenland Local Plan Policies LP3, LP12, LP14, LP15 and LP16. As noted in the evaluation below the scheme does not comply with Policy LP3 or LP14, and also represents character harm with regard to Policies LP12 and LP16.
- 9.2 Policy LP3 clearly indicates that Tydd St Giles is a small village which is capable of residential infilling. The planning portal glossary notes that Infill development is 'the development of a relatively small gap between existing buildings' It is clear the site in question may not be deemed as infill and that the scheme instead represents an extension of the settlement into the open countryside, contrary to the settlement hierarchy.
- 9.3 Consequently the proposed development is in clear conflict with Policies LP3 and LP12 of the Local Plan.

Flood Risk

- 9.4 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.
- 9.5 The application is accompanied by a Flood Risk Assessment that does not include consideration of the Sequential and Exception Tests and appears to rely on the fact that the site is within an area benefitting from flood defences. The Flood and Water SPD is explicit in setting out that the existence of defences should be disregarded in undertaking the sequential test.
- 9.6 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.
- 9.7 As such, the proposal fails to accord with the necessary requirements of Policy LP14 of the Local Plan, 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

- 9.8 The LHA have indicated that that visibility splays of 2.4m x 120m for both directions are required however, the submitted plans do not demonstrate that these splays can be achieved.
- 9.9 It has not been proven that the scheme has the potential to deliver appropriate visibility and this element must therefore form one of the reasons for refusal; the reason will be couched in such a way as to identify that the current scheme 'fails to demonstrate' as opposed to an outright 'highway safety and connectivity' refusal and is at present contrary to the aims of Policy LP15 of the FLP (2014).

Character and visual amenity

- 9.10 The transition from countryside to village is clearly marked in this location with the 'built footprint' of the village occurring to the north side of Newgate Road and East of Church Lane.
- 9.11 There are two properties along the western side of Church Lane with a separation distance of circa 330m. These dwellings are therefore considered anomalies rather than a continuation of the built form. It is therefore clear that the intervening space represents open countryside and therefore the introduction of two dwellings in this location would erode the existing character of the countryside.
- 9.12 This view aligns with the robust and measured objections put forward by local consultees who clearly and articulately express their concerns regarding the development; both its non-conformity with local plan policies and the real character harm that would arise.
- 9.13 Furthermore, Policy LP12 clearly states that development should not extend existing linear features and again this development is contrary to this outlined aim.
- 9.14 For the reasons outlined above the scheme should be resisted as contrary to Policies LP12 and LP16.

Residential amenity

- 9.15 Notwithstanding the character harm identified above and the lack of policy fit relating to the settlement hierarchy the site could be developed in such a manner as to provide appropriate levels of residential amenity for the intended householders in terms of private amenity space and servicing arrangements.
- 9.16 Furthermore, given the relationship of the site to the dwellings across the road and the single dwelling to the south, no issues are highlighted in securing an appropriate scheme which does not compromise existing residential amenity.
- 9.17 It is considered that the scheme has the potential to comply with Policies LP2 and LP16 of the FLP, subject to detailed layout and design which would be secured under the reserved matters for the site. However, the absence of residential amenity harm would not in itself justify acceptance of the scheme noting the fundamental 'principle' issues highlighted.

10 CONCLUSIONS

- 10.1 The proposal is contrary to Policies LP3, LP12, LP14, LP15 and LP16 in the Local Plan given that it is not infill and does not demonstrate compliance with flood risk policy. Furthermore, the technical details relating to access do not demonstrate that the scheme will accord with Policy LP15 in terms of highway safety and visibility splays.
- 10.2 It is contended that real and actual character harm would arise through the consolidation of the built form and the extension of existing linear features within an area which currently serves to mark the gentle transition between the open countryside and the built form of the village this being clearly at odds with Policy LP12 of the Fenland Local Plan (2014) and contrary to the aims of Policy LP16 (d)

which focuses on the need for development to enhance its setting and respond to the character of the local built environment.

10.3 In addition, no sequential test has been submitted and given the scope of the sequential test, it is unlikely that the scheme would pass. The adopted guidance 'Approach to the Sequential Test for Housing' identifies that the area of search for the purposes of carrying out the Sequential Test will be:

- a) Developments in the countryside – The whole of the rural area;
- b) Developments in towns and villages – The town/villages that the proposal would sustain.

As the site is considered to relate more readily to the 'open countryside', i.e. outside the built form of the settlement and goes beyond that allowed for under Policy LP3 the sequential test should be applied on a district wide basis. As a result, the proposal is contrary to LP14 and the NPPF in that it has not been demonstrated that there are no other more sequentially preferable sites which could accommodate the development within an area of lower flood risk.

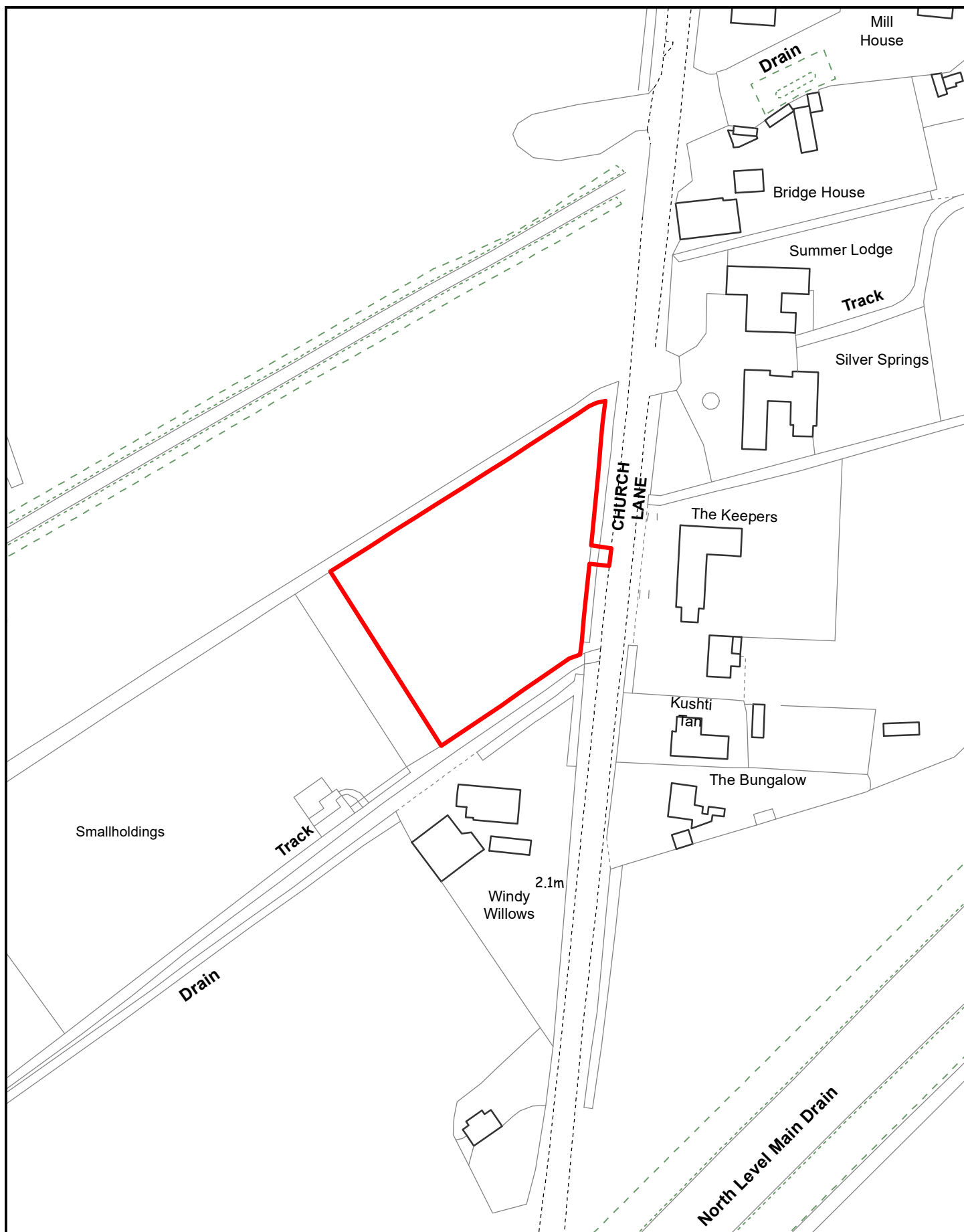
10.4 The application also fails to demonstrate that it can achieve technical compliance relating to highway safety as it fails to demonstrate that appropriate visibility can be achieved in respect of the proposed access. It has therefore not been confirmed that the scheme complies with Policy LP15 in terms of highway safety.

11 RECOMMENDATION

Refuse for the following reason:

1	Policy LP3 of the Fenland Local Plan identifies that Tydd St Giles is a 'small village' where development will normally be limited in scale to residential infilling or a small business opportunity. The location of the site is such that it fails to satisfy this requirement and by default Policy LP12 (a), noting the absence of adjoining development immediately to north of the application site. The proposal is therefore, clearly contrary to Policy LP3 and LP12 of the Fenland Local Plan.
2	Policy LP12 identifies that only infill developments will be considered favourably within settlements that have been identified as 'small villages' such as Tydd St Giles. Real and actual character harm would arise through the introduction of new development in this location which would serve to extend existing linear features within an area which currently serves to mark the gentle transition between the open countryside and the built form of the village this being clearly contrary to Policy LP12 and LP16 of the Fenland Local Plan.
3	<p>Policy LP14 of the Fenland Local Plan and the National Planning Policy Framework require applications within Flood Zone 3 locations to satisfy the sequential and exception test, with further guidance regarding the application of the sequential test being given in Cambridgeshire Flood and Water SPD and the Fenland District Council 'Approach to the Sequential Test for Housing'.</p> <p>No Sequential Test has been submitted however noting that the site fails to accord with the Settlement Hierarchy outlined in Policy LP3</p>

	<p>of the Fenland Local Plan and relates to the open countryside the Sequential Test is required to be applied on a district-wide basis and in this respect the proposal fails to comply with Policy LP14 of the Fenland Local Plan and the NPPF.</p>
4	<p>Policy LP15 of the Fenland Local Plan (2014) requires that proposals demonstrate accessibility and provide for safe and convenient access for all. The current scheme proposals fail to demonstrate that appropriate visibility is achievable in respect of the access point to serve the dwellings.</p> <p>It has not been confirmed that the scheme complies with the aims of Policy LP15 and by default it has not been demonstrated that the proposal will provide appropriate and safe levels of accessibility and that it would not compromise highway and pedestrian safety.</p>



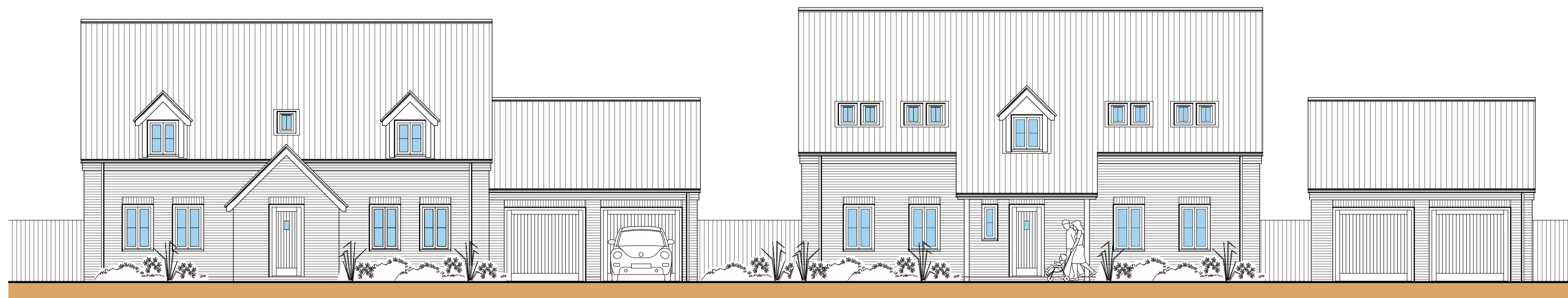
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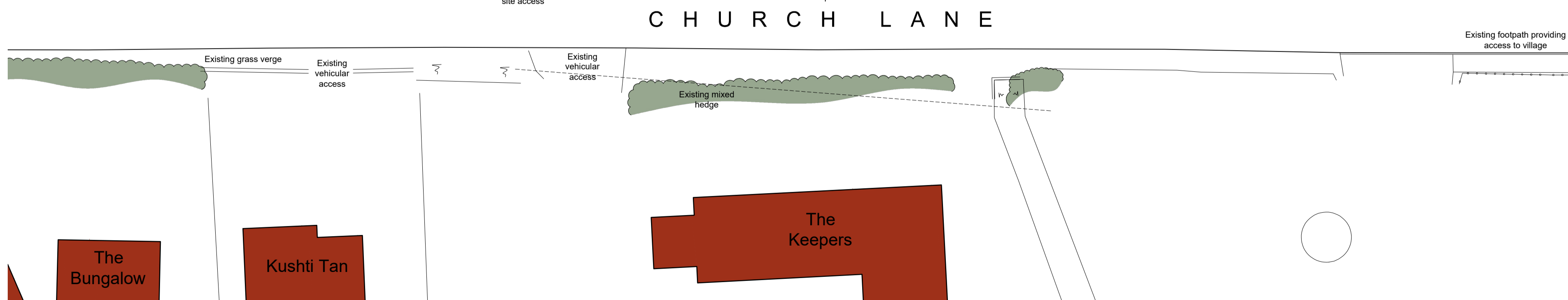
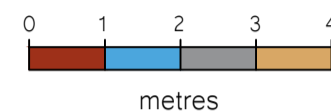
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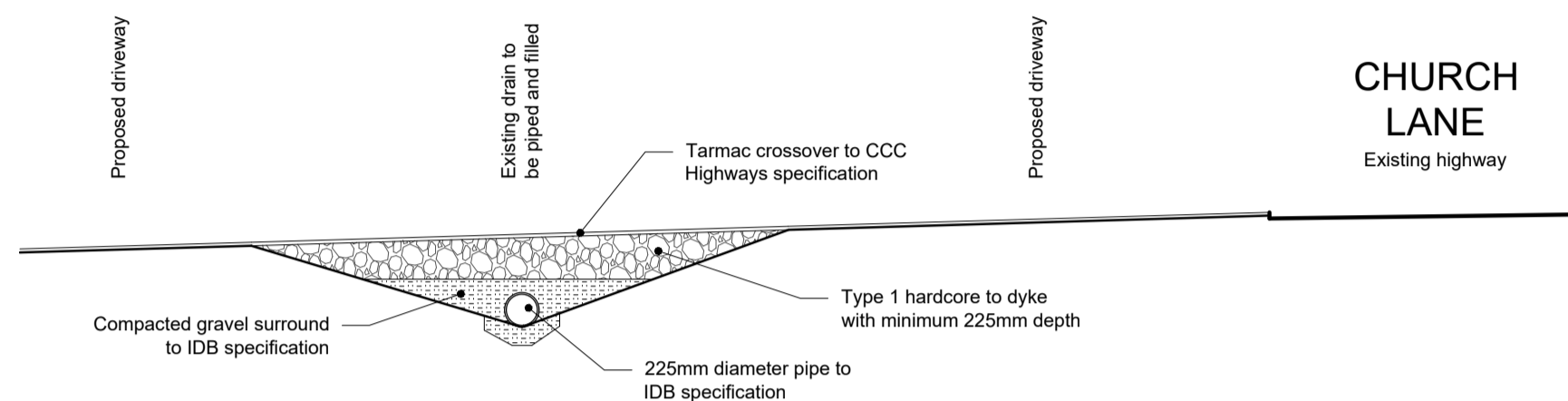
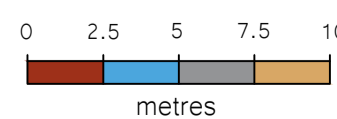
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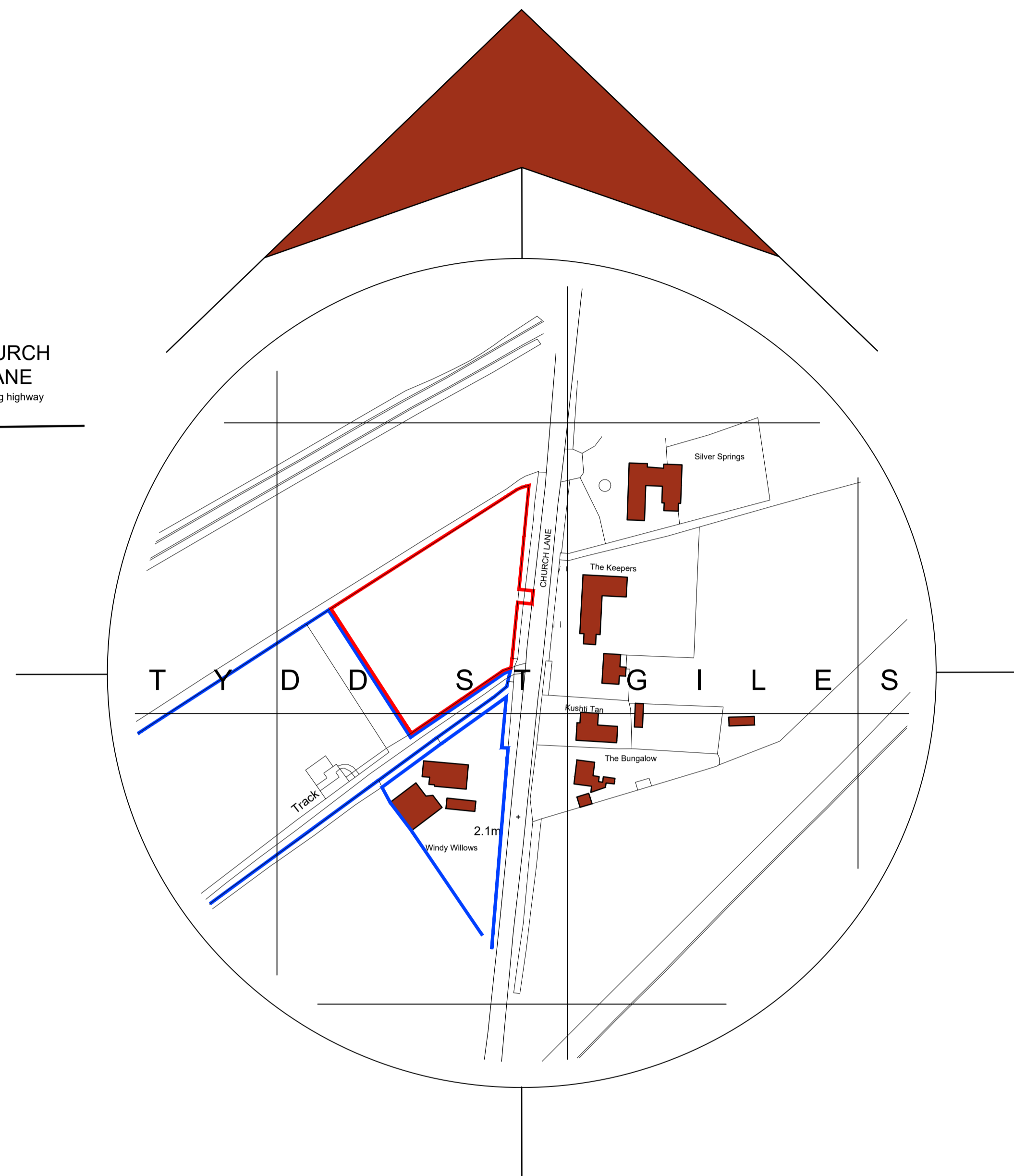
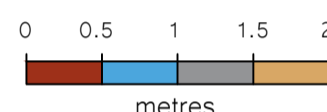
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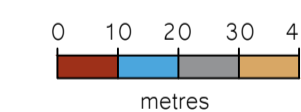
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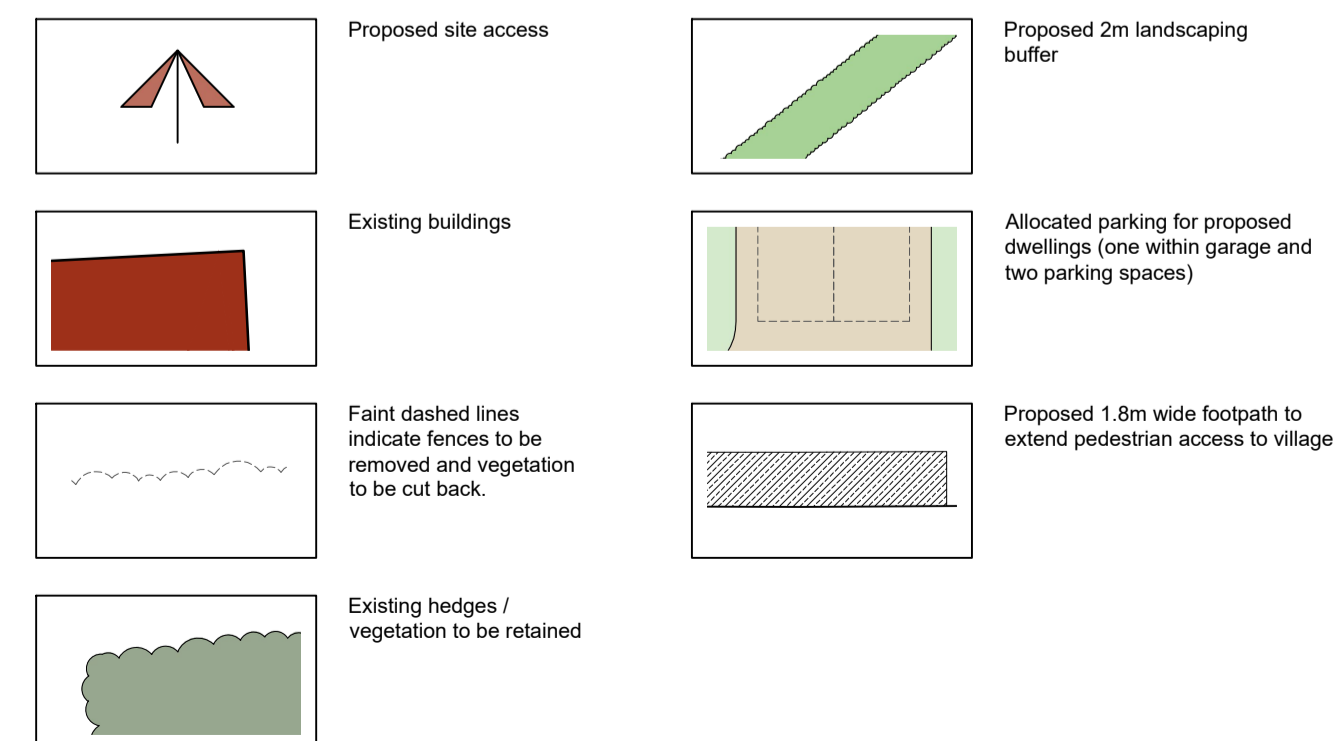


Location Plan

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SITE PLAN KEY



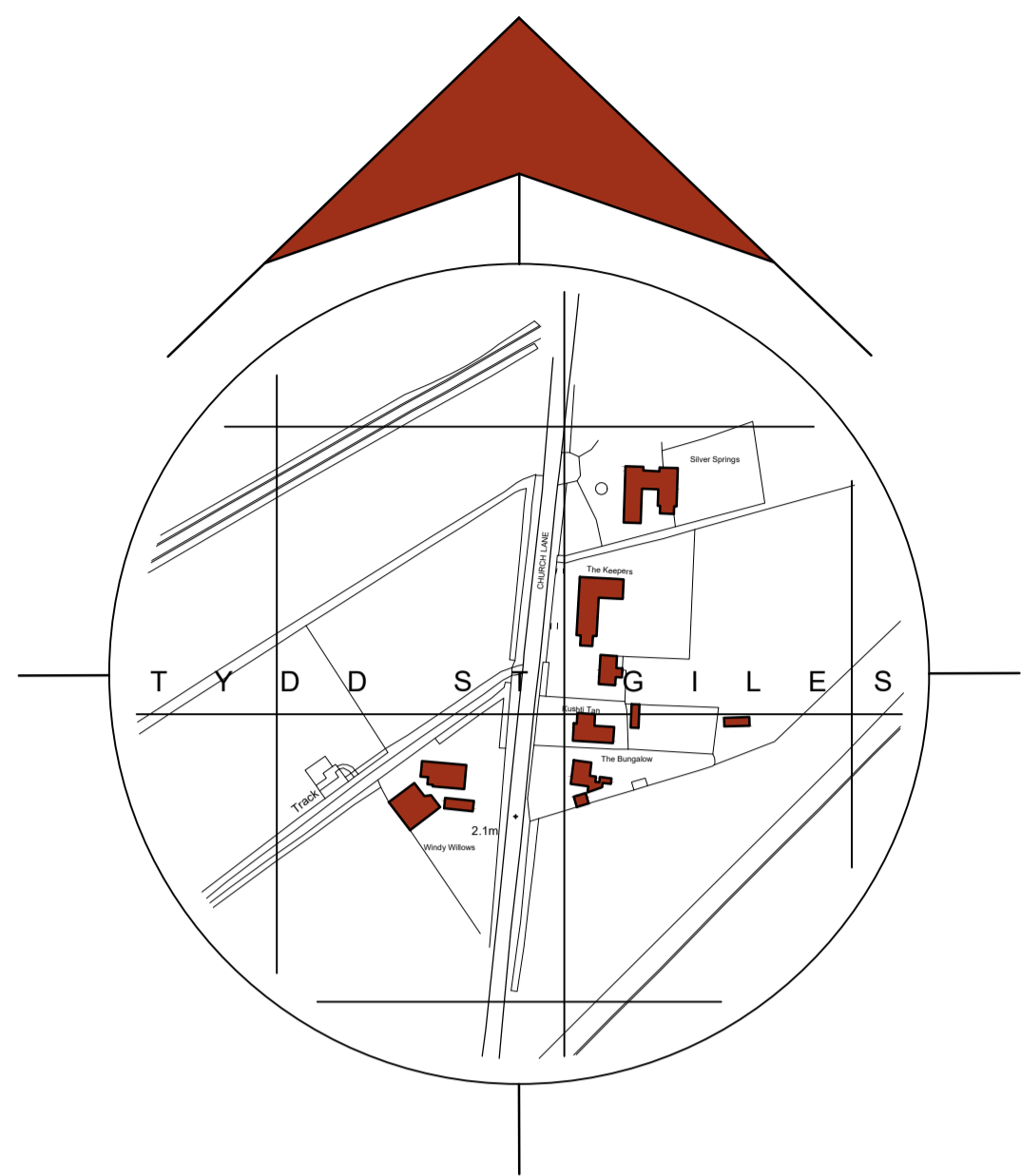
- General Notes
1. All dimensions are shown in 'mm' unless otherwise stated.
 2. The contractor, sub-contractors and suppliers must verify all dimensions on site prior to the commencement of any work.
 3. This drawing is to be read in conjunction with all relevant engineers and specialist sub-contractors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

Revisions		
A	May 2022	Boundaries updated
B	June 2022	Access Cross Section Added

Status
FOR APPROVAL

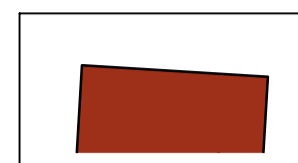


Job Title		Date	Drawn by
Proposed Residential Development of 2 Dwellings at Church Lane, Tydd St Giles for Mr D Moore		May 2022	GL
Drawing Title		Job No.	Sheet Size
Site Plan, Location Plan and Street Elevation		SE-1811	A1
Dwg No.		Revision	Checked by
1000		B	GE

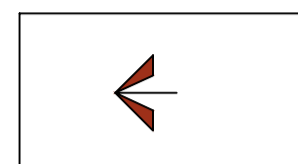


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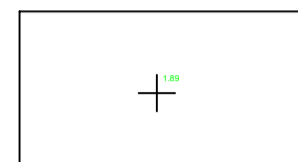
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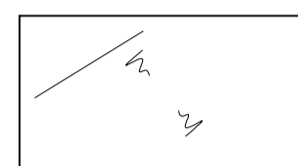
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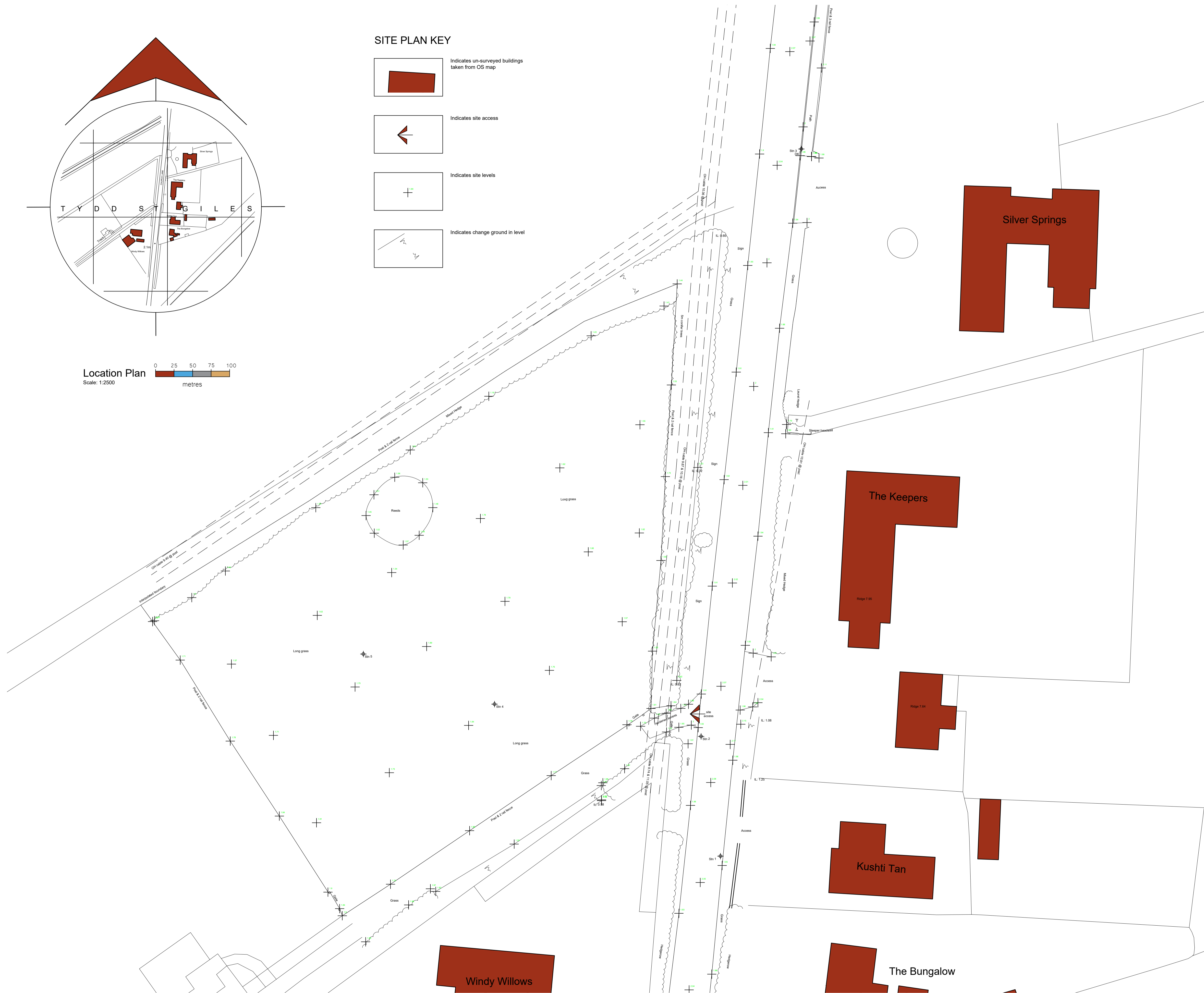
Indicates site access



Indicates site levels



Indicates change ground in level



Site Plan
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Status

AS EXISTING



Swann Edwards Architecture Limited, Swann Edwards Architecture,
Black Barn, Fen Road, Guyhirn, Wisbech, Cambs. PE13 4AA
t 01945 450694 e info@swannedwards.co.uk w www.swannedwards.co.uk

Proposed Residential Development
Land North of Windy Willows
Church Lane, Tydd St Giles
For: Mr D Moore

Job Title	Date	Drawn by
April 2022	SE-1811	Checked by

Drawing Title
Survey Drawing

Job No.	Sheet Size
SE-1811	A1
Dwg No.	Revision
100	