#### F/YR23/0033/F

Applicant: Mr M Vinn Boss Fabrication Ltd Agent : Mr G Boreham Morton & Hall Consulting Ltd

Farm Park, Short Nightlayers Drove, Chatteris, Cambridgeshire

Erect an extension to existing building and change of use of land for light industrial use

Officer recommendation: Refuse

Reason for Committee: Town Council comments and number of representations contrary to Officer recommendation

### 1 EXECUTIVE SUMMARY

- 1.1 This application seeks permission to incorporate agricultural land into the site curtilage and erect a new industrial building on a site which is in open countryside.
- 1.2 The planning history indicates that permission was originally granted to convert a modestly sized agricultural shed to industrial use. The building and use has grown over time to represent a significant incursion into the countryside.
- 1.3 The proposal is contrary to national and local policy as it represents development in a remote and unsustainable location in the open countryside outside areas allocated for employment use and is harmful to the open character of the landscape of the surrounding land.
- 1.4 The submitted FRA has not demonstrated that there is an absence of reasonably available sites in the locality and the district with a lower probability of flooding.
- 1.5 Sufficient information has not been provided to enable an assessment to be made on the impact of the proposal on the natural, ecological and biodiversity interests and neither has a justification been provided for the loss high grade agricultural land. In the absence of this information, it has not been possible to assess if the proposal accords with relevant policy requirements.
- 1.6 Any job creation benefits associated with the proposed development would not override the harm caused by contravening national and local policy and would set an unwelcome precedent for inappropriate development.

#### 2 SITE DESCRIPTION

- 2.1 The site is located on the northern side of Short Nightlayers Drove, some 250m east of its junction with the A142.
- 2.2 The site contains two employment units (it is understood that the site is solely occupied by the applicant) sited on the road frontage with an area of

hardstanding to its west. The site is located in the open countryside with the Anglian Water Sewage Plant to the west. The site frontage is marked by mature hedging as are the boundaries to the surrounding agricultural fields.

2.3 The site is located with Flood Zone 3. Short Nightlayers Drove is a single-track road without footpaths and cycleways. The A 142 to which it connects is similarly without footways or cycleways. The site in particular, and area in general, is not served by public transport.

# 3 PROPOSAL

- 3.1 This application seeks full planning permission for:
  - A change of use of agricultural land to industrial by incorporating some 50m of agricultural land into the northern boundary of the site curtilage as indicated on the redlined location plan submitted with the application.
  - A new workshop attached to the northern elevation of the existing workshop. Although the proposal is described as an extension the floorplans indicate a separate unit with no connection to the building. Both the existing and proposed units are similarly sized at 15m in width and 21m in depth respectively.
- 3.2 The site plan shows a fenced area drawn tightly around the extended building however beyond and to the north of the fence further parking and storage containers are indicated. This expansion corresponds with the extension of the curtilage into open countryside mentioned above.
- 3.3 Full plans and associated documents for this application can be found at: <u>F/YR23/0033/F | Erect an extension to existing building and change of use of land</u> for light industrial use | Farm Park Short Nightlayers Drove Chatteris <u>Cambridgeshire (fenland.gov.uk)</u>

## 4 SITE PLANNING HISTORY

Reference Desc	Decision	Date	
F/YR13/0145/F	Change of use from storage to retailing of motorcycles and associated accessories (retrospective) Unit2, Farm Park, Short Nightlayers Drove,	Grant	18.12.13
F/YR08/3040/COND	Details reserved by Condition 02 of planning permission F/YR08/0263/F (Erection of an extension to existing dwelling)	Approve	24.07.2008
F/YR08/0263/F	Erection of an extension to existing building	Grant	25.04.2008
F/YR07/1021/F	Erection of an industrial building	Refuse	20.11.2007
F/YR04/3851/F	Change of use from agricultural shed to B2 and B8 uses Land North of Short Nightlayers Drove, Chatteris	Grant	12.11.2004

## 5. CONSULTATIONS

### 5.1 Anglian Water

As the development has no connection to Anglian Water sewers it has no comments.

#### 5.2 Chatteris Town Council

Supports the proposal (01.02.2023)

#### 5.3 Environment Agency

No objections providing the flood risk implications of the proposal have been taken into account by the local planning authority. It considers that the main source of flood risk at the site is associated with watercourses under the control of the Internal Drainage Board (IDB).(**31.01.2023**)

#### 5.4 Internal Drainage Board

No comments have been received from the Middle Level Commissioners.

#### 5.5 FDC Economic Development

The proposed development will lead to significant job creation for local residents and generate additional business rates for the council. **(17.01.2023)** 

#### 5.6 Highway Authority

Following further discussions, the Highway Authority remains concerned at the impact of the proposed development on the junction of the access road and the A141. The Highway Authority has confirmed that the proposed intensification can

only be meaningfully assessed following the submission of a Transport Note quantifying the trip generation associated with the existing permitted use and the proposed extension based on impartial data such as TRICS database.

## 5.7 CCC Minerals and Waste

Given an approximate distance of some 190m to a Water Recycling Area with open fields in between CCC has no objections providing Anglian Water similarly has no objections to the proposal. **(10.02.2023)** 

### 5.8 Representations

Representations have been received from the occupiers of 10 properties in Chatteris, the grounds of support are summarised as follows:

- The site is well suited to an additional unit.
- Allows the expansion of a local business.
- Will not affect traffic in town.
- Result in local employment.
- Not affect the landscape.
- Near a current industrial area.
- Within an industrial area.
- Away from residential area.
- Not an eyesore
- Site is currently unused and benefits from being developed.

## **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 2019

- C1 Understand and relate well to the site, its local and wider context
- B2 Appropriate building types and forms
- U1 A mix of uses
- H1 Healthy, comfortable and safe internal and external environment
- H3 Attention to detail: storage, waste, servicing and utilities
- L1 Well-managed and maintained

## 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

LP6 – Employment, Tourism, Community Facilities and Retail

LP10 – Chatteris

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

# 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
- LP3 Spatial Strategy for Employment Development
- LP15 Employment
- LP18 Development in the Countryside
- LP20 Accessibility and Transport
- LP24 Natural Environment
- LP25 Biodiversity Net Gain
- LP28 Landscape
- LP32 Flood and Water Management
- LP47 Employment Allocations in Chatteris

# 8 KEY ISSUES

- Principle of Development and Economic Growth
- Sustainability
- Visual Impact
- Flood Risk
- Use Class
- Employment Benefits
- Highway Safety

# 9 BACKGROUND

- 9.1 An understanding of the planning history is of critical importance in the consideration of this application. The origins of employment use on the site began in 2004 when planning permission was granted to change the use of a modestly sized agricultural shed to B2 and B8 uses (F/YR04/3851/F). The shed had a floor area of approximately 170 m<sup>2</sup> and was located at the site frontage with surrounding land in agricultural use.
- 9.2 In 2007 the erection of an industrial building adjacent and to the north of the original agricultural shed with an expanded curtilage northwards was refused

under F/YR07/1021/F. The proposal was considered to be outside the Development Area Boundary and in the open countryside and have a detrimental impact on the landscape. This application also failed to demonstrate how the existing road network would cater for the use.

- 9.3 Subsequently, in 2008 permission for a light industrial store was granted (F/YR08/0263/F) for a standalone building measuring 350 m<sup>2</sup> adjacent to the original shed. Under this permission, a building double the size of an original agricultural shed was permitted and where the area of the site curtilage increased from the original 740 m2 to 1,836m2, and depth of the incursion into the countryside doubled from 17m to 35m. The justification for this decision is not apparent from the file. The size of the original building, extension, siting/curtilage, and encroachment into the countryside is clearly identifiable and evidenced by the Council's aerial imagery of 2003 and 2011.
- 9.4 This application seeks another building of the size (322m2) previously approved under F/YR08/0263/F and the redlined application boundary on the location plan is now shown extending 85m into the open countryside.
- 9.5 The application would represent a cumulative encroachment of some 70m into the open countryside since the change of use of the original agricultural shed and would constitute a significant incursion into the countryside. The remote location and poor road network serving the site remains unchanged.

# **10 ASSESSMENT**

### **Principle of Development**

Fenland Local Plan 2014

- 10.1 Chatteris is identified within the Settlement Hierarchy as a Market Town; Market Towns are identified within Policy LP3 as the focus for employment growth, accordingly there is a presumption in favour of development within this location.
- 10.2 Through Policy LP6 the Council is committed to delivering 85ha of new employment land to provide for business, industrial and distribution uses. Policy LP6 states that this objective will be achieved through the delivery of sites with permission, appropriate intensification, and extensions to established areas of employment and through a master planning approach within the urban extensions to the four market towns.
- 10.3 Policy LP10 (Chatteris) identifies the new urban extensions to Chatteris where the South Chatteris (Strategic Allocation) and North Chatteris (Broad Location for Growth) are areas allocated for business uses. The local plan through its policies LP6 and LP10 provides sufficient land to cater for local and district needs during the plan period and the onus remains on the applicant to demonstrate why development cannot take place in these areas.
- 10.4 A primary objective of the Local Plan is to protect the open countryside by directing growth towards the settlement hierarchy and the growth and limited growth villages. Policy LP12 deals with development in rural areas, and while referring explicitly to villages it is considered that implicitly it would also be relevant to a case such as this. Part A of the LP12 requires development to relate well to the core shape and form of a settlement. The only exceptions allowed by

national and local policy in open countryside relate to proposals for agricultural uses, buildings of historic or architectural merit or employment uses of buildings previously used for agricultural purposes. It should be noted that the proposal does not fall within any of these exceptions. The supporting statement to the policy states new proposals will be assessed using a criteria-based approach instead of fixed 'development area boundaries' around each of the settlements. This policy supports new development providing the wide-open character of the countryside is not harmed. The following criteria of LP12 are considered as being applicable:

- a) The site must be in or adjacent to the existing development footprint of the village (and specifically excludes individual buildings detached from the continuous built-up areas of the settlement)
- c) The proposed development should not have an adverse impact on the character and appearance of the surrounding countryside and farmland.
- f) The site retains and respects natural boundaries such as trees, hedgerows, embankments and drainage ditches.
- g) The site retains and respects ecological, heritage and biodiversity features.
- i) It would not result in the loss of high-grade agricultural land, or if so, comprehensive evidence is provided to justify the loss. This should include an assessment of all alternative reasonable opportunities in the locality to develop lower grades of agricultural land.
- k) It can be served by sustainable infrastructure provision, such as surface water drainage and highways.
- 10.5 The proposal conflicts with the criteria of Policy LP12 set out above in that:
  - a) The site is in open countryside and not in or adjacent the existing footprint of the settlement.
  - b) The proposal adversely impacts the character and appearance of the surrounding countryside as discussed below.

f & g) The application is not accompanied by any supporting evidence which suggests that the proposal will not have an adverse impact on the ecological and biodiversity interests.

- i) A search of alternative sites has not been presented to justify a case for development on the site and consequential loss of valuable agricultural land.
- k) Impact on surface water and highways are discussed in detail below but a Sequential Test has not been passed, and the Highways Authority has expressed reservations.

In short, the proposal is not compliant with Policy LP12.

10.6 Policy LP14 requires a sequential approach to flood risk with the successful completion of a sequential test having regard to actual and residual flood risks. The submitted FRA simply states that the sequential test has been passed without demonstrating why the development could not take place on alternative

sites which are available and better placed in terms of flood risk. The submitted sequential test fails to provide evidence that there are no reasonably available alternative sites, and therefore the proposal fails to comply with Policy LP14.

10.7 Policy LP16(d) requires all new development to make a positive contribution to the local distinctiveness and character of the area and not adversely affect it. The incremental encroachment into open countryside proposed by the application thus does not accord with the objective of this policy.

#### Emerging Local Plan

- 10.8 The emerging local plan retains the settlement hierarchy of the current plan but allocates significantly more employment land under Policies LP1 and LP3. Policy LP3 estimates that the broad locations of employment growth to the north and south of Chatteris should deliver another 100 ha of additional employment land.
- 10.9 Policy LP15 directs that proposals for new employment development should be located at sites: allocated for employment uses; established employment areas; or within settlement boundaries, unless the exemptions for proposals which support the rural economy apply. Policies LP45 and LP47 respectively identify Broad Locations for Employment Growth and sites allocated for employment development in Chatteris. As this proposal is not related to the rural economy it would not accord with policies LP1, LP3 and LP15 given the location of the site in open countryside and outside employment areas.
- 10.10 Policy LP18 (Part F) in relation to development in the countryside supports the expansion of an existing employment use providing all its other criteria of that part are met. In this instance the proposal would have to: be consistent in scale with its rural location; not harm the open nature of the countryside; easily accessible by public transport; and supported by a robust business plan. As argued in this report the incremental expansion at this site has long past being in scale with the original agricultural shed converted to business use and has now reached a size which is harmful to the open countryside. The site's remote location, considerably away from the nearest settlements, is not served by public transport. The application is not accompanied by a robust business plan. For these reasons the proposal fails to comply with Policy LP18.
- 10.11 Policy LP20 relates to accessibility and transport and requires safe access and promotes the use of cycle and pedestrian connections, in short ensuring that the site is accessible to existing or proposed services and facilities. As already described, the site is remote and not served by public transport or services.
- 10.12 Policy LP24 seeks to protect the natural environment and requires development to avoid adverse impacts on biodiversity and impacts to be mitigated. In tandem, Policy LP25 requires proposals to consider how they can contribute towards biodiversity net gain. Supporting paragraph 20.26 cites the example of the development of a single agricultural field with a hedgerow around it where more land should be set aside for wildlife to thrive than there was before the development took place.
- 10.13 Policy LP28 requires the protection and enhancement of space between settlements, and their wider landscape setting. The proposal relates to a sizable incursion into open countryside and agricultural land marked by mature hedging and field drains where some impact on the natural environment and biodiversity interest could be expected. The application fails to demonstrate through

supporting evidence that impact on the natural environment and biodiversity interests is acceptable or can be mitigated. The proposal therefore fails to comply with policies LP20, LP24, LP25 and LP28.

- 10.14 Flood risk is dealt with by Policy LP32 which reiterates the requirement of the NPPF and the FLP 2014 to take a sequential approach to flood risk management. As described below, the sequential test is not passed due to a failure to adequately consider reasonably available alternative sites.
- 10.15 Essentially, the policies of the emerging plan mirror those of the adopted plan and both plans reflect the NPPF where the central objective is to protect the open countryside and reduce flood risk by directing employment development to sustainable and allocated areas and sites.
- 10.16 The principle of development is therefore not supported by adopted or emerging plans as it constitutes unsustainable development in the open countryside where the proposed development adversely affects the character and appearance of the surrounding countryside and farmland.

### Sustainability

- 10.17 The site is located in open countryside and accessed off a single-track road. As such, the site is not considered to be within a sustainable location in relation to settlements or the local highway network. The proposal would therefore not be compliant with the requirements of paragraphs 84 and 85 of the NPPF which requires sustainable growth of all types of business in rural areas, and development which is sensitive to its surroundings and in a sustainable location.
- 10.18 At the local plan level Policy LP2 seeks to create employment opportunities albeit in accessible locations, whereas Policy LP6 seeks to direct growth towards broad locations for growth where development would be compatible with adjacent urban land uses.
- 10.19 The proposal may create very limited opportunities for employment but within an unsuitable and inaccessible location in open countryside which is not considered to be sustainable.

#### Visual Impact

- 10.20 The NPPF at paragraph 174(b) stresses the need to recognise the intrinsic character and beauty of the countryside including the benefits of the best and most versatile agricultural land and of trees and woodland.
- 10.21 Paragraph 175 requires plans to allocate land with the least environmental or amenity value and where significant development of agricultural land is demonstrated to be necessary, areas of poorer quality should be preferred to that of a higher quality.
- 10.22 The aims of the NPPF are reflected in Policy LP16 of the FLP which seeks to protect high quality environments throughout the district. LP16(d) is of particular relevance in that it requires development to make a positive contribution to the local distinctiveness and character of the area and not adversely affect the landscape character of the surrounding area. In line with paragraph 175 of the NPPF Local Plan Policy LP10 has allocated land for business uses to the north and south of Chatteris.

- 10.23 This application relates to an isolated site in open countryside immediately to the north of Short Nightlayer Drove. The Chatteris Water Recycling Plant some 220m to the northwest is the nearest built development. The nearest part of Chatteris lies some 330m to the southwest across the Isle of Ely Way (A142). Open countryside of the best quality agricultural land lies in all other directions. The landscape is typically Fenland of flat open rectangular fields marked with hedging set amid a road/track network laid to a grid. Set against the context of this landscape any isolated industrial development will be prominently and unacceptably visible.
- 10.24 Incremental development in the open countryside taking up the best grade of agricultural land would therefore not accord with national or local policy. In circumstances where there is sufficient allocated land for business use within the district no justification has been provided to allow inappropriate development in the open countryside.

### Flood Risk

- 10.25 The site is within Flood Zone 3 representing the highest risk of flooding and meaning that the application is required to be supported by a Flood Risk Assessment. The flood risk implications of the proposal are left to be assessed by the local planning authority (see Environment Agency comments above).
- 10.26 At its paragraph 159 the NPPF sets out the principle that inappropriate development should be avoided by directing development away from areas of highest risk. Using the sequential risk-based approach plans new development should be steered to areas with the lowest risk. Compliance with an exception test is not required in this instance as the proposed development does not fall within uses classified as more vulnerable (such as buildings used for offices; general industry; storage and distribution).
- 10.27 The planning application is supported by a Flood Risk Assessment (FRA) which acknowledges the location of the site within Flood Zone 3 and the need to apply a sequential test (ST). The purpose of a ST is to compare the application site with other available sites with the aim of steering development to areas with the lowest risk of flooding.
- 10.28 The submitted FRA argues that as large areas around Chatteris lie in Flood Zone 3 there are limited opportunities to undertake the development on an alternative site with a lower flood risk; that, as the development is proposed to an existing business within an existing industrial site it is not practical to undertake the development elsewhere; furthermore, in preparing its Flood Maps the Environment Agency did not consider that the site is protected by the Middle Level Barrier which ensures that the site has a low probability of flooding. For these reasons the FRA considers the development to be appropriate and pass the sequential test.
- 10.29 The NPPF places onus onto the applicant to demonstrate that there is an absence of reasonably available sites, no evidence has been put forward which presents this case. The correct approach would be to start looking at sites allocated in the local plan which would be informed and supported by a Strategic Flood Risk Assessment (SFRA) and a Water Cycle Study (WCS).
- 10.30 Due to its location in Flood Zone 3 the proposed development would not only be

exposed to flood risk, it could also increase the risk through surface water runoff. As noted above, the proposed development would be classified as a use of low vulnerability. The impact of surface water run off could be mitigated by a surface water disposal system which could limit flows from leaving the site. Provision can also be made for the controlled disposal of flood water.

- 10.31 The proposed development could therefore be made safe and need not increase flood risk. This however does not negate the fact that it could potentially be located on a site where the probability of flooding would be lower in the first place.
- 10.32 The purpose of the ST is to reinforce the most effective risk management measure of all – that of avoidance. Whether flood risk could be controlled or mitigated at a development should not override the need to prevent that risk in the first place. Such an argument would be contrary to the whole approach of the NPPF and could again be repeated too often.
- 10.33 Whilst it is agreed that the proposed development would deliver some modest employment benefits, it is also true that the jobs could be created elsewhere within the district. The decision whether the site has correctly been included within Flood Zone 3 is a matter for the Environment Agency.
- 10.34 For these reasons it is considered that the proposal remains unacceptable in flood risk terms.

#### Use Class

10.35 It must also be noted that new Use Class I of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended now only permits a change of use from Class B2 to B8 (previously it also permitted a change from B1 )providing it does not relate to more than 500 sq m of floorspace in the building. A potential change to a B8 and associated size and height of vehicles use will have considerable and unrestricted adverse impact on the surrounding highway network given the constricted size of the access road to the site and the junction with the A142

#### **Employment Benefits**

- 10.36 Central to the justification of the proposal is the creation of additional local employment. The planning application form states that currently 9 people are employed, and the proposal will generate employment for 2 more people. The Design and Access Statement at paragraph 7.0 states that 10 persons are employed and does not state how many additional jobs will be created. The company accounts submitted in late 2022 indicate that 5 people were employed during that financial timeframe.
- 10.37 Setting aside any discrepancies in numbers of people currently and proposed to be employed the issue at consideration is whether job retention and creation on this site would override the harm caused by the proposal. Where clearly sufficient employment land has been allocated and is available within the district and locality and it has not been demonstrated why reasonably available alternative sites cannot be taken up there is no justification to contravene policy. An argument that a proposal which does not accord with planning policy should be allowed purely on the basis of minor job creation would be contrary to the whole approach of the NPPF and could again be repeated too often.

# **Highway Safety**

- 10.38 The Highway Authority has expressed concern at the impact of the proposal on the junction between the access road to the site and the A141. To allow an assessment of the impact the Highway Authority requires impartial data on trip generation. The planning application is not accompanied by any information on trip generation. The Design and Access Statement supporting the application simply states that there will be no change to the access onto the A141 bypass, and that there are deliveries to the site (10 per week, only 2 by HGVs).
- 10.39 In the absence of data relating to trip generation it is not possible to confirm if the proposal is acceptable in terms of highway safety and compliance with national and local policy.

## **11 CONLCUSIONS**

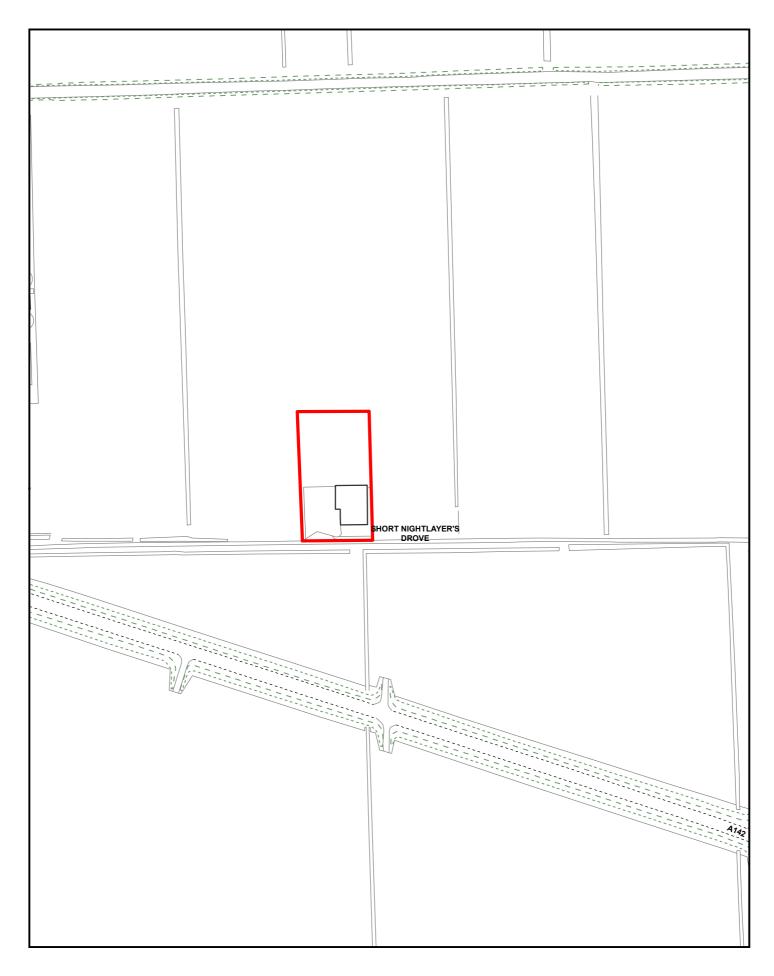
- 11.1 A modestly sized agricultural shed was permitted to change to employment use in 2004, a building double in size was then granted permission in 2008. The current application now proposes to erect another building of the size allowed in 2008. The cumulative increase in size of the building and incursion into the countryside is considered to be harmful to the surrounding area and contrary to national and local policy.
- 11.3 The site is within Flood Zone 3; no evidence has been provided to demonstrate that there is an absence of readily available sites with a lower level of flood risk. Furthermore, sufficient data on trip generation has not been submitted to address highway safety concerns. The suitability of the site in terms of flood risk and highway safety cannot be assessed on the basis of the information submitted.

## **12 RECOMMENDATION**

Refuse; for the following reasons:

1	Cumulative extensions of the building and curtilage on an isolated site remote from the built environment represents inappropriate and unsustainable development outside the settlement hierarchy and an encroachment into open country and which would be harmful to the open character of the surrounding landscape. Any job creation benefits would not override the harm caused by contravening national and local policy and would set an unwelcome precedent for inappropriate development. The proposal is therefore not in accordance with the NPPF and policies LP2, LP3, LP6, LP10, LP12, LP16 of the Fenland Local Plan (2014)
2	The onus on demonstrating within the Flood Risk Assessment that there are no reasonably available alternative sites out with Flood Zone 3 where the development could take place rests with the applicant. In the absence of this information the sequential test cannot be assessed and therefore is not passed. Consequently, the proposal is in conflict with the flood risk requirements of the NPPF and policy LP14 of the Fenland Local Plan (2014).
3	Impartial trip generation data associated with the existing and proposed development has not been provided. In the absence of this data the application has not demonstrated acceptable impact on highway safety and

compliance with the NPPF, Policy LP15 (Facilitating the Creation of a More Sustainable Transport Network in Fenland) of the Fenland Local Plan (2014).



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