F/YR23/0362/O

Applicant: Elaine Chiva Agent : Elaine Chiva Ideal Prestige Properties Ltd Aspect Architectural Design

Land West Of 491, March Road, Turves, Cambridgeshire

Erect up to 3 x dwellings with associated accesses and infrastructure (outline application with all matters reserved)

Officer recommendation: Refuse

Reason for Committee: Referred by Head of Planning on advice of Committee

Chairman.

1 EXECUTIVE SUMMARY

- 1.1 This application seeks outline permission for up to 3no dwellings with all matters reserved, though access is indicated from March Road.
- 1.2 Policy LP3 of the Fenland Local Plan identifies Turves as a Small Village, where development will be considered on its merits but will normally be of a very limited nature and normally be limited in scale to residential infilling or a small business opportunity. The site cannot be considered as infill development as it extends into undeveloped land beyond the built form of the settlement, and there is no other development on the northern side of March Road that the proposed development could be considered to be filling the space between. As such, the scheme is considered contrary to Policy LP3.
- 1.3 Policy LP12 seeks to support development that does not harm the character of the countryside, and Policy LP16 (d) of the Fenland Local Plan (2014) requires development to deliver and protect high quality environments through, amongst other things, making a positive contribution to the local distinctiveness and character of the area. The site does not represent residential infilling as it extends into undeveloped land beyond the existing built form of the settlement. Development on this land would be to the detriment of the character and appearance of the rural area as it would directly contradict the current settlement pattern and would arguably create a precedent for further development into the open countryside that would erode the surrounding rural character. As such, the proposal would be contrary to the requirements of Policies LP3, LP12, LP16(d) and DM3 (2014).
- 1.4 Insufficient information is provided to demonstrate that suitable visibility splays and visibility for turning vehicles can be provided for the required access to March Road. The application materials have therefore not demonstrated that suitable and safe access will be available to the proposed development, contrary to policies LP2 and LP15 which aim to provide safe transport networks.
- 1.5 Insufficient information has been provided to demonstrate that development in

this site will be able to protect and enhance biodiversity on and surrounding the proposal site. The proposal does not demonstrate compliance with Policies LP16 (b) and LP19 of the Fenland Local Plan.

- 1.6 The application does not include evidence in respect of the sequential or exception tests and therefore fails to provide demonstrable evidence that the scheme would be acceptable in respect of flood risk. The proposal is therefore contrary to policy LP14 of the Fenland Local Plan (2014), Section 14 of the National Planning Policy Framework (2019) and Cambridgeshire Flood and Water Supplementary Planning Document (2016).
- 1.7 Consequently, the application is recommended for refusal.

2 SITE DESCRIPTION

- 2.1 The subject site is a large, mostly flat parcel of land located on the northern side of March Road, Turves. To the north and west of the site is vacant land. There is a railway line further north. To the east there is a dwelling, which is screened from the subject site by a row of vegetation whilst beyond March Road to the south is a row of dwellings.
- 2.2 The site lies in the countryside and is situated in Flood Zone 3.

3 PROPOSAL

3.1 This application is an outline application proposing the erection of 3no dwellings on the site with all matters reserved. The application form indicates these will be 4no bedroom dwellings for market housing. An indicative plan shows that each of the three plots would have its own access point to March Road, which runs along the south of the site.

4 SITE PLANNING HISTORY

4.1 This site has no planning history.

5 CONSULTATIONS

5.1 Whittlesey Town Council

The Town council recommend refusal as under the FDC local plan this is not an integral part of the village, also highways have requested amendments, and there is no report from Middle level.

5.2 Local Highway Authority

In order to make an informed decision in respect of the submitted application, the following information is required:

While this application is all matters reserved, it is unclear if safe access is achievable due to the proximity of the site to a sharp change in highway alignment. The applicant will need to demonstrate that inter-vehicular visibility splays commensurate with the 40mph speed limit (2.4m x 120m) are achievable within the application boundary and / or the highway boundary. They will also need to

demonstrate that 120m forward visibility to a vehicle stopped to turn right into the site is achievable. Should the applicant wish, I will accept a reduction in visibility based upon observed 85th percentile vehicle speeds.

If the applicant is unwilling or unable to amend the application or provide additional information as outlined above, please advise me so I may consider making further recommendations, possibly of refusal.

5.3 Natural England

No objection.

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.

5.4 Environmental Health Officer

No objection.

Conditions are requested in relation to contamination and working times.

5.5 Environmental Agency

We have no objection to this planning application, providing that you have taken into account the Flood Risk considerations which are your responsibility. We have provided additional information below.

Flood Risk

This site is located within the extent of the 'IDB Flood Risk Area', which forms part of the Local Flood Risk Standing Advice for Fenland District Council. As such, this application falls within the scope of Advice Note 6 and the LPA should refer to this advice note. We consider that the main source of flood risk at this site is associated with watercourses under the jurisdiction of the Internal Drainage Board and have no comments to make on this application.

Sequential and Exception Tests

In accordance with the National Planning Policy Framework (paragraph 162), development should not be permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower probability 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. Our flood risk standing advice reminds you of this and provides advice on how to apply the test.

5.6 County Ecology - We recommend refusal of this application due to lack of biodiversity information. This matter can be resolved through the submission of an Ecological Impact Assessment (and any recommended survey work) to the LPA prior to the determination of the planning application. Please find further detailed below: The applicant site potentially supports habitats and species of biodiversity value, which may be impacted by the scheme. However, no ecological impact assessment has been provided as part of the scheme. It is therefore not possible to determine the level of impact of the scheme on biodiversity, which is a material

consideration in the planning process1. It is not possible to determine if the scheme accords with National Planning Policy Framework 2021 (paragraphs 174 & 180-182) or Fenland Local Plan 2014 policy LF-19 which seeks to conserve, enhance and promote the biodiversity interest. Furthermore, the local authority is unable to discharge its statutory duty to conservation biodiversity (Natural Environment and Rural Communities Act 2006) and protect Protected Sites and species of European importance (Conservation of Habitats and Species Regulations 2017). We therefore recommend refusal until an Ecological Impact Assessment is undertaken as submitted as part of the planning application. It is likely that the EcIA will recommend further protected species work (e.g. reptiles), which must also be completed and submitted prior to determination of the planning application.

The planning application should also be supported by evidence to demonstrate how the scheme has been designed to result in a net gain in biodiversity, in accordance with National Planning Policy Framework 2021 (paragraphs 174d & 180d) and Fenland Local Plan policy LP19.

5.7 Local Residents/Interested Parties

Two representations have been received raising concerns and objecting in respect of the following:

- Barn owls hunt on the land and other wildlife use/live on the site
- Drainage and flooding issues
- What will the houses look like?
- Any insurance or damages to be claimed if the house is affected
- Poor infrastructure to accommodate more dwellings
- No access to shops or a bus network
- Highway safety issues
- Erosion of fields

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 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

LP5 - Meeting Housing Need

LP12 - Rural Areas Development Policy

LP13 – Supporting and Managing 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

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

LP2: Spatial Strategy for the location of residential development

LP4: Securing Fenland's Future

LP5: Health and Wellbeing

LP7: Design

LP8: Amenity Provision

LP12: Meeting Housing Needs

LP18: Development in the Countryside

LP19: Strategic Infrastructure

LP20: Accessibility and Transport

LP22: Parking Provision

LP24: Natural Environment

LP25: Biodiversity Net Gain

LP27: Trees and Planting

LP28: Landscape

LP32: Flood and Water Management

LP33: Development of Land Affected by Contamination

8 KEY ISSUES

- Principle of Development
- Design and Visual Amenity
- Residential Amenity
- Flood Risk
- Highways/parking
- Biodiversity

9 BACKGROUND

- 9.1 There are a number of recent decisions relating to development near the site:
- 9.2 In 2019, application ref: F/YR18/1133/F was approved along Whitlesey Road to the north-east of the side for the erection of 6 dwellings. This development was considered to be infill between the existing dwellings fronting Whittlesey Road to the north and south and is in the same location as a previous consent for three detached dwellings. This approval dated back to 2008 when the relevant site was within the Development Area Boundary for Turves in the then local plan

9.3 In 2022, approvals for additional dwellings were granted on two nearby sites by Planning Committee contrary to the officer recommendation. These approvals included: Outline Planning Permission for up to 2 dwellings to the south of 733 Whittlesey Road (Ref: F/YR22/0919/O); and 1 x dwelling involving the demolition of existing agricultural building, located east of 723 Whittlesey Road (Ref: F/YR22/0012/F).

10 ASSESSMENT

Principle of Development

- 10.1 Policy LP3 of the Fenland Local Plan identifies Turves as a Small Village, where development will be considered on its merits but will normally be of a very limited nature and normally be limited in scale to residential infilling or a small business opportunity. The site cannot be considered as infill development as it extends into undeveloped land beyond the built form of the settlement to the north, and there is no other development on the northern side of March Road that the proposed development could be considered to be filling the space between. Whilst it is acknowledged that there are residential units at the juncture of March Road/Whittlesey Road, the proposal would as previously stated extend into new undeveloped land and as such would be considered contrary to Policy LP3.
- 10.2 Policy LP12 of the Local Plan supports development that does not harm the wide open character of the countryside and provides further guidance as to the restriction of such development to ensure that is has an acceptable impact on the settlement and its character. The Policy requires development to meet certain criteria in order to be supported. The site must be in or adjacent to the existing developed footprint of the village, it must not result in coalescence with any neighbouring village, and must not have an adverse impact on the character and appearance of the surrounding countryside and farmland. Similarly, the proposal must be in keeping with the core shape and form of the settlement, without resulting in the extension of linear features or create ribbon development, and must retain natural boundaries, respect ecological features, important spaces, etc. Finally, the proposal must be served by sustainable infrastructure, and must not put people or property in danger from identified risks.
- 10.3 The site is vacant land on the north side of March Road and is surrounded by vacant land to the north and west. The core shape and form of the settlement includes a row of development on the south side of March Road, and development on both sides of Whittlesey Road from the intersection with March Road. There is currently no development on the north side of March Road on the eastern side of the railway crossing, except for No. 491, which is on the intersection with Whittlesey Road, and is visually separated from the remainder of the land north of March Road by a row of screening vegetation.
- 10.4 The proposed development would be in conflict with the existing core shape and built form of the development along both March Road and Whittlesey Road. Furthermore, expansion of the built form along the northern side of March Road would have an impact on the openness of the area, which is an important characteristic of this area of countryside. Besides the development along Whittlesey Road, there is no expansion of development into the open areas, and no other dwellings which could be considered to be joined to the existing development by infilling.

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

- 10.5 With regard to the consultation draft of the emerging Local Plan, which carries extremely limited weight as this time, given that consultation has only recently commenced, the site is outside of the defined settlement boundary of Turves and is therefore classed as open countryside where development will only be permitted in the circumstances set out within paragraph 80 the NPPF.
- 10.6 Draft Policy LP1 (Part C) of the emerging Local Plan does contain an element relating to frontage linear development up to three dwellings, applicable at the edge of settlements. However, it is considered that this proposed element of the draft emerging Local Plan conflicts with the NPPF and therefore can carry no weight. The draft emerging Local Plan and submissions received has not yet been submitted to the Secretary of State. It is possible and likely that many changes to the emerging Local Plan will still be required. Due to the very early stage of the emerging Local Plan, if the proposal complies with Part C of LP1 of the emerging Local Plan, very limited weight is afforded to this, and in this instance, it is not sufficient to outweigh the clear conflict with the policies of the adopted Local Plan and the NPPF.

Design and Visual Amenity

- 10.7 Details of appearance, layout and scale are to be submitted at Reserved Matters stage, however the Council must be satisfied that an appropriate design can be brought forward through any subsequent reserved matters application before granting planning permission. An indicative proposed block plan has been provided, showing three plots fronting March Road, each with a separate access.
- 10.8 Local Plan Policy LP16 identifies that proposals for new development will only be permitted if it can be demonstrated that the proposal, inter alia, (d) makes a positive contribution to the local distinctiveness and character of the area, enhances its local setting, responds to and improves the character of the local built environment, provides resilience to climate change, reinforces local identity and does not adversely impact, either in design or scale terms, on the street scene, settlement pattern or the landscape character of the surrounding area.
- 10.9 Moreover, in rural areas, a development proposal needs also to satisfy the criteria set out in Policy LP12. As this application is Outline only with no matters committed, the main issue for consideration is whether the principle of development of three new dwellings in this location would accord with the necessary criteria of Policy LP16(d) and LP12.
- 10.10 The development proposed would see up to three detached dwellings positioned on undeveloped open land that currently forms a distinct and natural demarcation between the developed built form of Turves and the surrounding countryside. Openness and extensive views across the fen are very much part of the character of the village and these should be preserved. The railway forms somewhat of a physical barrier running past the north of the site, however, it is noted that there are not boundary treatments or other obvious visual barriers along the railway that would impact the views to the open agricultural plains from street level.

- 10.11 As discussed above in this report, besides the development along Whittlesey Road, there is no development along the northern side of March Road. The existing dwelling on the intersection with Whittlesey Road is clearly visually separated from the subject site and surrounding vacant land by a row of vegetation, and any new development in this location would be imposing new visual precedent to the otherwise open space.
- 10.12 The proposed development would be to the detriment of the character and appearance of the rural area as it would directly be in conflict with the current settlement pattern and would arguably create a precedent for further development into the countryside, eroding the existing rural character to the north of March Road and west of Whittlesey Road, contrary to the requirements of Policy LP12 and Policy LP16(d).

Residential Amenity

- 10.13 Policy LP2 states that development proposals should contribute to the Council's goal of Fenland's residents, including promoting high levels of residential amenity.
- 10.14 Policy LP16 states that development should not adversely impact on the amenity of neighbouring users such as noise, light pollution, loss of privacy and loss of light. It also identifies that proposals should identify, manage and mitigate against any existing or proposed risks from sources of noise, emissions, pollution, contamination, odour and dust, vibration, landfill gas and protects from water body deterioration.
- 10.15 Given the location of the properties are within close proximity to the existing railway, noise and vibrations from the railway track are a consideration. It is noted, however, that dwellings have recently been approved closer to the existing railway than the subject site, application ref: F/YR18/1133/F, which included acoustic treatments such as boundary treatments and sound insulations. Given that this application is for outline permission only, with all matters reserved, it is considered that the potential noise impacts of the nearby railway could be suitably addressed at reserved matters stage if this application were to be approved.
- 10.16 With regards to impacts of the proposed development on neighbouring properties, it is considered that the dwellings could be designed, with the appropriate orientation, window layout and landscaping to limit any adverse overlooking and could also be designed to limit any overbearing and shadowing. If this application is supported, the impact on residential amenity in terms of overlooking and loss of privacy would be re-visited at the reserved matters stage once the scale and appearance of the dwellings can be fully assessed and, upon which, neighbours would have further opportunity to comment.

Flood Risk

10.17 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.

- 10.18 The site is located in Flood Zone 3, the area at highest risk of flooding. Policy LP14 requires development proposals to adopt a sequential approach to flood risk from all forms of flooding, and states that development in an area known to be at risk will only be permitted following the successful completion of a Sequential Test, an Exception Test, and the demonstration that the proposal meets an identified need and appropriate flood risk management.
- 10.19 The applicant submitted a Flood Risk Assessment by Geoff Beel Consultancy in support of the proposed development. The Flood Risk Assessment identifies that the site is within a defended floodplain and is considered to be passive until such time as a flood greater than that for which the defences were designed occurs. The submitted assessment states that "The Sequential Test and Exception Test are met as the development is protected against both the 1 in 100 year fluvial flood event and also the 1 in 200 year tidal flood event meeting the requirements of NPPF".
- 10.20 However, as the development is a new build it is required to pass the sequential test as set out within the NPPF and also the Cambridgeshire Flood and Water SPD. 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. The submitted Floor Risk Assessment is incorrect in stating that the Sequential Test and Exception Test are met, and no such tests have been provided in the submitted information.
- 10.21 As the site is outside the continuous built form of the settlement, the area of search for the sequential test is required to be district wide. It is clear that there are numerous sites across the district which would be at a lower risk of flooding and therefore sequentially acceptable instead of the subject site. The development therefore fails the sequential test.
- 10.22 As such, the proposal fails to accord with the necessary requirements of Policy LP14, the SPD and the NPPF, and as such, should be refused on the basis of a lack of demonstrable evidence that the scheme would be acceptable in respect of flood risk.

Highways/parking

- 10.23 The site is accessed from March Road, which runs along the southern boundary of the site. There is no footpath along the frontage of the site, however, one exists across the road on the southern side of March Road. Whilst the application is in outline form with all matters reserved, the agent has submitted an indicative plan that shows three new access points to March Road.
- 10.24 Whilst the eventual highway details would come forward as part of any reserved matters application, there should be a certainty that a scheme is capable of being achieved that does not impinge on highway/pedestrian safety/sustainability of a scheme.
- 10.25 Highway Officers have provided comment that "While this application is all matters reserved, it is unclear if safe access is achievable due to the proximity of the site to a sharp change in highway alignment. The applicant will need to demonstrate that inter-vehicular visibility splays commensurate with the 40mph speed limit (2.4m x 120m) are achievable within the application boundary and / or

the highway boundary. They will also need to demonstrate that 120m forward visibility to a vehicle stopped to turn right into the site is achievable. Should the applicant wish, I will accept a reduction in visibility based upon observed 85th percentile vehicle speeds."

- 10.26 Insufficient information is provided to demonstrate that suitable visibility splays and visibility for turning vehicles can be provided for the required accessed to March Road. Although this application is for outline planning permission only, with all matters reserved (including access), this information regarding visibility splays is required to demonstrate the proposed development could be accessed safely. This information has not been provided as part of the application materials.
- 10.27 It has not therefore been demonstrated that suitable and safe access will be available to the proposed development, contrary to policies LP2 and LP15 which aim to provide safe transport networks.

Biodiversity

- 10.28 Local Plan Policy LP16 (b) identifies that proposals for new development will only be permitted if it can be demonstrated that the proposal protects and enhances biodiversity on and surrounding the proposal site.
- 10.29 Policy LP19 identifies that the Council will refuse permission for development that would cause demonstrable harm to a protected habitat or species, unless the need for and public benefits of the development clearly outweigh the harm and mitigation and/or compensation measures can be secured.
- 10.30 The applicant site potentially supports habitats and species of biodiversity value, which may be impacted by the scheme. However, no ecological impact assessment has been provided as part of the scheme. It is therefore not possible to determine the level of impact of the scheme on biodiversity, which is a material consideration in the planning process.
- 10.31 As such, insufficient information has been provided to demonstrate that development in this site will be able to protect and enhance biodiversity on and surrounding the proposal site. The proposal does not demonstrate compliance with Policies LP16 (b) and LP19 of the Fenland Local Plan and the requirements in the NPPF.

11 CONCLUSIONS

- 11.1 It is considered that the proposal does not accord with the requirements of Policy LP3 and LP12 in respect of the Settlement Hierarchy in that is located outside the built framework of Turves and does not represent residential infilling. Furthermore, development of this site would encroach into the countryside at detriment to the rural character of the area in contravention of Policies LP12 and LP16(d).
- 11.2 The application included no details in respect of the Sequential or Exception tests and is therefore contrary to Policy LP14 and the adopted Cambridgeshire Flood and Water SPD or Section 14 of the NPPF.
- 11.3 Insufficient information has been provided to demonstrate that suitable visibility splays and visibility for turning vehicles can be provided for the required access to

March Road, contrary to policies LP2 and LP15 which aim to provide safe transport networks.

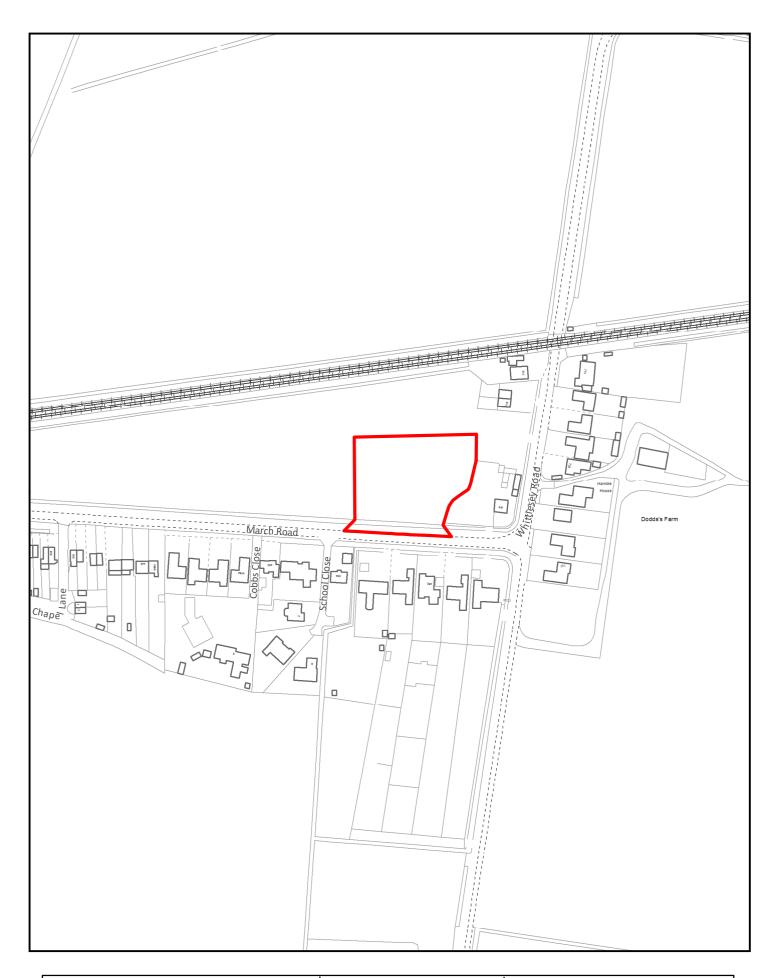
- 11.4 Additionally, insufficient information has been provided to demonstrate that development in this site will be able to protect and enhance biodiversity on and surrounding the proposal site. As such, the proposal fails to demonstrate compliance with Policies LP16 (b) and LP19 of the Fenland Local Plan.
- 11.5 Given the above, the outline application is recommended for refusal.

12 RECOMMENDATION:

Refuse; for the following reasons:

1	Policy LP3 of the Fenland Local Plan (2014) defines Turves as a 'small village' where development may be permitted on its merits but normally limited in scale to residential infilling. Policy LP12 seeks to support development that does not harm the character of the countryside, and Policy LP16 (d) of the Fenland Local Plan (2014) requires development to deliver and protect high quality environments through, amongst other things, making a positive contribution to the local distinctiveness and character of the area. The site does not represent residential infilling as it extends into undeveloped land beyond the existing built form of the settlement. Development on this land would be to the detriment of the character and appearance of the rural area as it would directly conflict with the current settlement pattern and would arguably create a precedent for further development into the open countryside that would erode the surrounding Fen rural character. As such, the proposal would be contrary to the requirements of Policies LP3, LP12, LP16(d) and DM3 (2014).
2	Policy LP14 of the Fenland Local Plan, Section 14 of the National Planning Policy Framework (2019) and Cambridgeshire Flood and Water Supplementary Planning Document (2016) require development proposals to adopt a sequential approach to flood risk from all forms of flooding, and Policy LP14 states that development in an area known to be at risk will only be permitted following the successful completion of a Sequential Test, an Exception Test, and the demonstration that the proposal meets an identified need and appropriate flood risk management. The application does not include evidence in respect of the sequential or exception tests and therefore fails to provide demonstrable evidence that the scheme would be acceptable in respect of flood risk. The proposal is therefore contrary to policy LP14 of the Fenland Local Plan (2014), Section 14 of the National Planning Policy Framework (2019) and Cambridgeshire Flood and Water Supplementary Planning Document (2016).
3	Insufficient information is provided to demonstrate that suitable visibility splays and visibility for turning vehicles can be provided for the required access to March Road. The application materials have therefore not demonstrated that suitable and safe access will be available to the proposed development, contrary to policies LP2 and LP15 which aim to provide safe transport networks.

4	Insufficient information has been provided to demonstrate that development of the site will be able to protect and enhance biodiversity on and surrounding the proposal site. The proposal does not adequately demonstrate compliance with Policies LP16 (b) and LP19 of the Fenland Local Plan.



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