#### F/YR23/0593/O

Applicant: Mr D Sawyer & Mr V Agent: Mr R Papworth Rowbottom Morton & Hall Consulting Ltd

Land North Of 15, Badgeney End, March, Cambridgeshire

Erect up to 2 x dwellings (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. The application site comprises part of a wider parcel of agricultural land situated to the north of Badgeney Farm and adjoining residential dwelling at 15 Badgeney End, March. To the south west of the site, on the opposite side of the road from Badgeney Farm is another residential dwelling, Badgeney Cottage. The application site is located on the eastern side of Badgeney End, approximately 190m east of the edge of the built framework of March, separated by the railway line that runs to the eastern side of March.
- 1.2. The proposal is an outline planning application for the construction of up to 2 dwellings with matters committed in respect of access. Two new accesses are proposed, one for each dwelling, directly off Badgeney End, with associated area for parking and turning.
- 1.3. Notwithstanding any issues that could be resolved through submission of a detailed Reserved Matters application, there are fundamental locational issues that would mean that the principle of development is unacceptable, which is the main requirement for consideration in respect of this Outline application. 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 within agricultural land outside the built framework of March. Furthermore, development at this site would encroach into the countryside at detriment to the rural character of the area in contravention of Policy LP12 and Policy LP16(d).
- 1.4. In addition, the application site is located within Flood Zone 3, but 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.
- 1.5. Overall, the proposed development is considered to be unacceptable, and the recommendation is one of refusal.

- 2.1. The application site comprises part of a wider parcel of agricultural land situated to the north of Badgeney Farm and adjoining a residential dwelling at 15 Badgeney End, March. The site is located within the countryside with open agricultural land situated to the northeast and west. To the southwest of the site, on the opposite side of the road from Badgeney Farm is another residential dwelling, Badgeney Cottage. The application site is located on the eastern side of Badgeney End, approximately 190m east of the edge of the built framework of March, separated by the railway line that runs to the eastern side of March.
- 2.2. In the vicinity of the site Badgeney End is a single track rural road, with limited passing places, which runs north to south within agricultural land.
- 2.3. The site is located in Flood Zone 3, the highest risk of flooding.

#### 3 PROPOSAL

- 3.1. The proposal is an outline planning application for the construction of 2 dwellings on the land with matters committed in respect of access. Two new accesses are proposed, one for each dwelling, directly off Badgeney End, with associated area for parking and turning. The submitted illustrative block plan includes a detached garage to serve the dwelling located at plot 2 with both dwellings to have a drainage basin and vegetable patch located to the east side of their plots.
- 3.2. Full plans and associated documents for this application can be found at: F/YR23/0593/O | Erect up to 2 x dwellings (outline application with matters committed in respect of access) | Land North Of 15 Badgeney End March Cambridgeshire (fenland.gov.uk)

#### 4 SITE PLANNING HISTORY

4.1. No pertinent planning history relevant here.

### **5 CONSULTATIONS**

## 5.1. March Town Council (07/08/2023)

Object, Development outside the development area boundary, dwellings not work-place dwellings, site located within Flood Zone 3.

# 5.2. CCC Highways (10/08/2023)

No objection to the proposed development.

Silt Road is a low trafficked and narrow road devoid of any dedicated pedestrian infrastructure and opportunity for vehicle passing. It is therefore not a suitable location for material development in absence of enhancement to the local highway provision.

However, the intensification which will be associated with two new dwellings is not material and is unlikely to result in an unacceptable adverse highway impact. On this basis, I do not consider the proposal to be objectionable in highway safety terms.

That being said, as there is no attractive walking route between the proposed development and March town and as Silt Road and Badgeney End are unlit, I would question the sustainability of site for residential development which is likely to be car dominant. This is something which the LPA may wish to consider under Local Plan policy LP1 and LP15 (C).

I have refrained from providing comments relating to the site layout as this is not for approval.

As this site must be accessed via a level crossing, I recommend you consult with Network Rail.

In the event that the LPA are mindful to approve the application, please append the following Conditions to any consent granted:

#### **Conditions**

- Gates: Prior to the first occupation of the development hereby approved/Prior to the commencement of the use hereby approved any gate or gates to the vehicular access shall be set back 5 metres from the near edge of the highway carriageway, hung to open inwards, and retained in perpetuity thereafter.
- Wheel Wash Facilities: Development shall not commence until fully operational wheel cleaning equipment has been installed within the site. All vehicles leaving the site shall pass through the wheel cleaning equipment which shall be sited to ensure that vehicles are able to leave the site and enter the public highway in a clean condition and free of debris which could fall onto the public highway. The wheel cleaning equipment shall be retained on site in full working order for the duration of the development.

# 5.3. Environment Agency (08/08/2023)

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

We have reviewed the submitted Flood Risk Assessment (FRA) with regard to tidal and designated main river flood risk sources only.

We consider that the main source of flood risk at this site is associated with watercourses under the jurisdiction of the Internal Drainage Board (IDB). As such, we have no objection to the proposed development on flood risk grounds. However, the IDB should be consulted with regard to flood risk associated with watercourses under their jurisdiction and surface water drainage proposals.

In all circumstances where flood warning and evacuation are significant measures in contributing to managing flood risk, we expect local planning authorities to formally consider the emergency planning and rescue implications of new development in making their decisions.

# Advice for the Applicant

Any proposed flood resilient measures should follow current Government Guidance. For more information on flood resilient measures, please see the Department for Communities and Local Government (DCLG) guidance document "Improving the Flood Performance of New Buildings – Flood Resilient Construction, 2007", which is available on the following website:

<a href="https://www.gov.uk/government/publications/flood-resilient-construction-of-new-building">https://www.gov.uk/government/publications/flood-resilient-construction-of-new-building</a>

The Environment Agency operates a flood warning system for existing properties currently at risk of flooding to enable householders to protect life or take action to manage the effect of flooding on property. Receiving the flood warnings is free; you can choose to receive your flood warning as a telephone message, email, fax or text message. To register your contact details, please call Floodline on 0345 988 1188 or visit https://www.gov.uk/sign-up-for-flood-warnings.

Registration to receive flood warnings is not sufficient on its own to act as an evacuation plan. We are unable to comment on evacuation and rescue procedures for developments. Advice should be sought from the emergency services and the Local Authority's emergency planners when producing a flood evacuation plan.

# 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.

# 5.4. FDC Environmental Health (23/07/2023)

No Objections to the proposal, as it is unlikely to have a detrimental effect on local air quality or be affected by ground contamination.

This service would however welcome a condition on working times due to the close proximity of existing noise sensitive receptors, with the following considered reasonable:

No construction work shall be carried out and no plant or power operated machinery operated other than between the following hours: 08:00 hours and 18:00 hours on Monday to Friday, 08:00 hours and 13:00 hours on Saturday and at no time on Sundays, Bank or Public Holidays, unless otherwise previously agreed in writing with the Local Planning Authority.

## 5.5. **CCC Archaeology (17/07/2023)**

The proposed development lies in an area of known high archaeological potential to the east of March, on the edge of a fen island with the fen sloping away to the east. Running through the proposed development area a cropmark indicated a double ditched trackway leading roughly north south (Cambridgeshire Historic Environment Record MCB32116). This trackway follows the edge of the fen less than 100m to the east, and runs towards an area of intense cropmark activity to the north indicating Roman settlement and land use (CHER 08458, 09376, 09378, 08981, 09377) and including the Fen Causeway a major Roman routeway connected settlement across the fen east – west (CHER CB15033). To the east and west further linear features have been identified via cropmarks (CHER MCB24079, 10999). Whilst we do not object to development from proceeding in this location, we consider that the site should be subject to a programme of archaeological investigation secured through the inclusion of a negative condition, such as the example condition approved by DCLG.

## Archaeology Condition

No demolition/development shall commence until the applicant, or their agents or successors in title, has implemented a programme of archaeological work,

commencing with the evaluation of the application area, that has been secured in accordance with a Written Scheme of Investigation (WSI) that has been submitted to and approved by the Local Planning Authority in writing. For land that is included within the WSI, no demolition/development shall take place other than under the provisions of the agreed WSI, which shall include:

- a. the statement of significance and research objectives;
- b. The programme and methodology of investigation and recording and the nomination of a competent person(s) or organisation to undertake the agreed works;
- c. The timetable for the field investigation as part of the development programme;
- d. The programme and timetable for the analysis, publication & dissemination, and deposition of resulting material and digital archives.

REASON: To safeguard archaeological assets within the approved development boundary from impacts relating to any demolitions or groundworks associated with the development scheme and to ensure the proper and timely preservation and/or investigation, recording, reporting, archiving and presentation of archaeological assets affected by this development, in accordance with national policies contained in the National Planning Policy Framework (MHCLG 2019).

#### Informatives:

Partial discharge of the condition can be applied for once the fieldwork at Part c) has been completed to enable the commencement of development. Part d) of the condition shall not be discharged until all elements have been fulfilled in accordance with the programme set out in the WSI.

A brief for the recommended programme of archaeological works is available from this office upon request. Please see our website for CHET service charges

## 5.6. Local Residents/Interested Parties

# **Objectors**

3 letters of objection have been received from 3 addresses within March, including an objection from the occupiers of 15 Badgeney End which adjoins the application site to the south, concerns are summarised as follows:

- Substantial amount of wildlife present at the site
- Derelict buildings in the area unoccupied that could be renovated
- Contrary to policies LP3, LP12, LP14 and LP16(d) of the Fenland Local Plan 2014
- Would create a precedent for further development on this site to the detriment of the surrounding open countryside
- Development site is located outside of settlement boundary
- Site is located in Flood Zone 3, the highest risk of flooding
- Site is agricultural land used for farming

# **Supporters**

13 letters of support, several of which are identical proformas in nature, have been received from 13 addresses within March which make the following summarised comments:

- The dwellings would enhance the security of properties in the area
- •
- Would add to the character of the area
- Executive style houses are much needed in March
- These properties will be in easy walking/cycling distance to March town centre
- Would support a growing Market town
- The proposed site should be considered part of March and not as an elsewhere location
- Would contribute to the enhancement of the local economy by attracting new residents, creating jobs during the construction process, and potentially bringing more commercial activity to the area
- Site is in an ideal location and appropriate to build an executive type house, similar properties have been built nearby
- The site has good access to and from March

#### **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

# 7.1. National Planning Policy Framework (NPPF)

Para 2: NPPF is a material consideration in planning decisions.

Para 7: Purpose of the planning system is to contribute to the achievement of sustainable development

Para 12: Conflict with an up-to-date plan should not usually be granted

Para 79: Housing should be located where it will enhance or maintain the vitality of rural communities.

## 7.2. National Planning Practice Guidance (NPPG)

**Determining Planning Applications** 

## 7.3. National Design Guide 2021

Context

Identity

**Built Form** 

Homes and Buildings

#### 7.4. 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

LP15 – Facilitating the Creation of a More Sustainable Transport Network

LP16 - Delivering and Protecting High Quality Environments

LP19 - The Natural Environment

## 7.5. 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

LP7 - Design

LP8 - Amenity Provision

LP18 – Development in the Countryside

LP20 - Accessibility and Transport

LP22 - Parking Provision

LP24 – Natural Environment

LP32 – Flood and Water Management

# 7.6. March Neighbourhood Plan 2017

H2 – Windfall Development

# 7.7. Supplementary Planning Documents/Guidance

Cambridgeshire Flood and Water SPD (2016)

## 8 KEY ISSUES

- Principle of Development
- Impact on Character and Amenity
- Flood Risk
- Access and Parking
- Residential Amenity

#### 9 ASSESSMENT

# **Principle of Development**

- 9.1. Policy LP3 of the Fenland Local Plan 2014 identifies March as a Market Town where, according to Policy LP3, the majority of the district's new housing should take place. However, the site is situated within an area of undeveloped agricultural land approximately 190m east of the edge of the built environment of March and with the physical boundary created by the railway line. As such, it is not considered to be located within the existing urban area of March, and hence the broad principle of developing the site with regard to the development proposals would be inconsistent with this policy.
- 9.2. Taking this into account it is considered that the development site falls within an 'elsewhere' location. As identified under Policy LP3 development in such areas should be restricted to that which is essential for agriculture, horticulture, forestry, outdoor recreation, transport or utility services and to minerals or waste development. Furthermore, owing to the elsewhere location, it is necessary to apply the criteria outlined in Policy LP12. Considering the proposal is to erect a new dwelling at the site, it must meet the tests set out in Part D of Policy LP12 which would require the application to demonstrate an existing functional need (amongst other criteria). This functional need would normally only be supported where is required owing to an adjacent enterprise falling within the categories outlined within Policy LP3, and any approval would likely include a restrictive occupancy condition to the same.

- 9.3. There are other dwellings in the vicinity, such as 15 Badgeney End to the south, Badgeney Cottage to the southwest and further south along Badgeney End, Byways. However, 15 Badgeney End and Badgeney Cottage, pre-date planning as they have been in situ for many years; whilst Byways, approved in 1990, was for the replacement of an existing dwelling.
- 9.4. Furthermore, on land south 15 Badgeney End, the erection of a chalet bungalow was refused under planning application F/YR06/0273/O in 2006, owing to the development being considered as unsustainable residential development within the countryside and concerns over the likely precedent that would arise if the development was approved. Thus, whilst this application pre-dates the current local plan, the unsupported principle of development in this area and concerns by earlier planning officers remains consistent.
- 9.5. Notwithstanding the existence of nearby dwellings, the proposed development would not be 'physically' isolated, however due to lack of nearby services and facilities e.g. shops and bus routes (the nearest bus stop is approx. 1 mile away located at Gray's Lane within March), the site would be 'functionally' isolated due to the site's location outside of the built environment of March. Therefore, the provisions of Para. 79 of the NPPF which seeks to 'promote sustainable development in rural areas' and the tests established by the Braintree judgement would not be relevant and would not outweigh Policy LP12 in this instance.
- 9.6. Details submitted with the application includes no justification regarding functional need for the dwellings being essential to rural enterprises such as agriculture, horticulture, forestry, outdoor recreation, transport or utility services, etc. The submitted application form suggests that the proposed dwellings are intended as executive type housing, which would not have any functional needin this location. Furthermore, the submitted Design and Access statement makes no reference to the houses being necessary to the operation of a rural enterprise. Thus, the proposal therefore fails to comply with Policies LP3 and LP12 of the Fenland Local Plan 2014 and thus the principle of development such as the proposed cannot be supported.

# Impact on Character and Amenity

- 9.7. Policy LP16 (d) refers to development making a positive impact to local distinctiveness and the character of the area and amongst other things should not have an adverse impact on landscape character. It is also a core planning principle in the NPPF that recognises the intrinsic value of the countryside therefore consideration needs to be given to any harm caused. Further to the necessary criteria in respect to the functional need for development in elsewhere locations, Policy LP12 seeks to ensure that development respects the character and appearance of the surrounding countryside and farmland.
- 9.8. There were no indicative elevations provided with this outline application, with matters relating to the specific appearance, layout and scale to be committed at Reserved Matters stage.
- 9.9. Central to this proposal is that the development would encroach into previously undeveloped agricultural land, which is characteristic of the nature of the open countryside surrounding the site. Development on this land would be to the detriment of the character and appearance of the area and would arguably create a precedent for further development along this part of Badgeney End which in the future would be hard to defend. As such, the proposal would be contrary to the requirements of Policies LP12 and LP16 (d).

#### Flood Risk

- 9.10. 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.
- 9.11. 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.
- 9.12. 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.
- 9.13. 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.

# Access and Parking

- 9.14. Cambridgeshire County Council as the acting Highways Authority have commented on the application and submitted comments of no objection.
- 9.15. The Highways Officer has stated 'Silt Road is a low trafficked and narrow road devoid of any dedicated pedestrian infrastructure and opportunity for vehicle passing. It is therefore not a suitable location for material development in absence of enhancement to the local highway provision. However, the intensification which will be associated with two new dwellings is not material and is unlikely to result in an unacceptable adverse highway impact. On this basis, I do not consider the proposal to be objectionable in highway safety terms.'
- 9.16. However, the Highways Officer did question the sustainability of the site commenting 'there is no attractive walking route between the proposed development and March town and as Silt Road and Badgeney End are unlit, I would question the sustainability of site for residential development which is likely to be car dominant. This is something which the LPA may wish to consider'.
- 9.17. The Highways Officer did outline certain conditions to be implemented if the council were minded approving the application. These conditions relating to the setting back of gates from the edge of the public highway and wheel washing facilities would have been appended to any recommendation for approval.

# **Residential Amenity**

9.18. There were no indicative floor plans or elevations offered with the application and as such the LPA are unable to establish definitively if issues such as overlooking

- will need to be reconciled. However, owing to the relative position of the proposed dwellings, shown indicatively, it would appear that there may be negligible issues relating to impacts on residential amenity to reconcile from the scheme.
- 9.19. In terms of occupier amenity, the proposed dwelling appears to be sufficiently distanced from the nearby railway line to limit impacts of noise or vibration to future occupiers. No objections were raised in this respect through consultation with the Environmental Health team.
- 9.20. Furthermore, the illustrative site plan indicates that suitable amenity space may be provided for each of the proposed dwellings to meet the requirements of Policy LP16 (h) of the Fenland Local Plan.
- 9.21. However, the site's position on a rural, unlit road without pedestrian access could result in the dwelling being 'functionally' isolated due to the lack of services and infrastructure to support the site (see para 9.5 of this report). This is a material consideration in respect of Policies LP2 and LP16 with regard to future occupier amenity and could occur as a result of development in an unsustainable location.

## 10 CONCLUSIONS

- 10.1. Notwithstanding any issues that could be resolved through the submission of a detailed Reserved Matters application, there are fundamental locational issues that would render the principle of development unacceptable, which is the main requirement for consideration in respect of this outline application. 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 within agricultural land outside the built framework of March. Furthermore, development of this site would encroach into the countryside at detriment to the rural character of the area in contravention of Policy LP12 and Policy LP16(d).
- 10.2. In addition, the application site is located within Flood Zone 3, but the application submission 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.

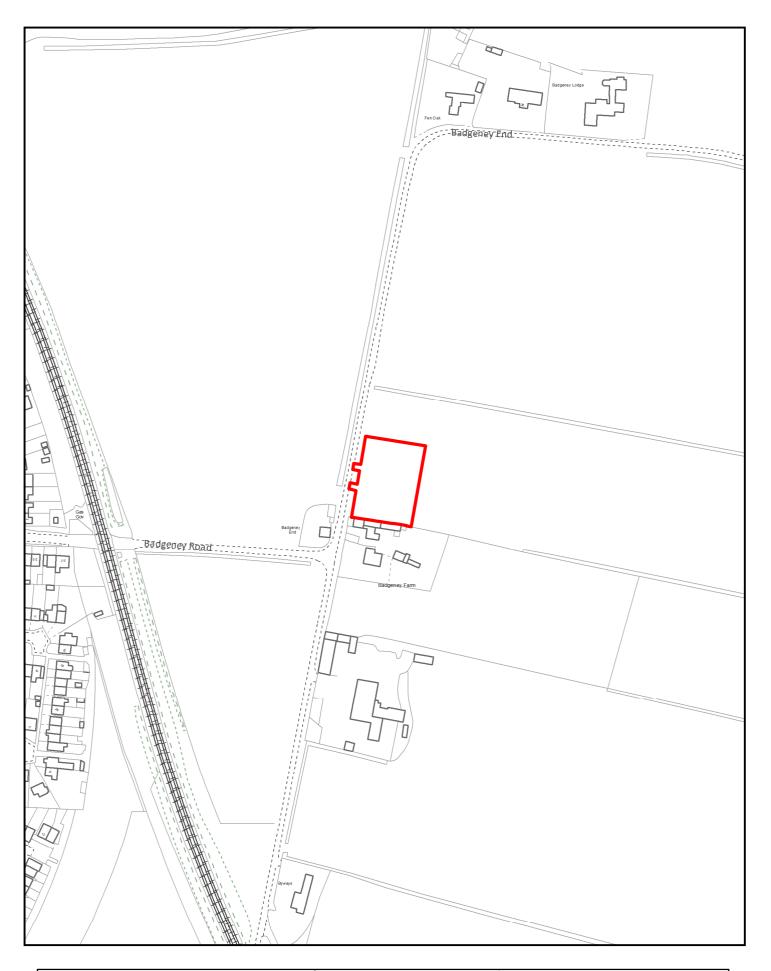
#### 11 RECOMMENDATION

1.

**Refuse**, for the following reasons;

Policy LP3 of the Fenland Local Plan (2014) sets out the settlement hierarchy within the district, and Policy LP12 details a range of criteria against which development within the District will be assessed. The site is considered an 'elsewhere' location where development should be restricted to that which is essential for agriculture, horticulture, forestry, outdoor recreation, transport or utility services and to minerals or waste development. The proposed development is located in existing agricultural land outside the settlement limits of March, where residential development is not normally supported unless justified. The proposal will introduce development into an area that currently has a strong relationship with the adjoining countryside, with no evidence to a clear link to rural enterprise and hence does not demonstrate an essential need for the dwelling in this location. Therefore, the proposal fails to comply with Policies LP3 and LP12 of the Fenland Local Plan 2014.

2	Policy LP12 seeks to support development that does not harm the character of the countryside. Policy LP16 (d) of the Fenland Local Plan (2014) and Policy DM3 of Delivering and Protecting High Quality Environments in Fenland Supplementary Planning Document (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. 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 and would be difficult to defend against. As such, the proposal would be contrary to the requirements of Policies LP12, LP16(d) and DM3 (2014).
3	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).



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