
F/YR19/0636/FDC

**Applicant: Ms Becky Francis
Fenland District Council**

Agent :

Land South Of 18, Rowan Close, Wisbech, Cambridgeshire

Erect 1 dwelling (outline application with all matters reserved)

Reason for Committee: Fenland District Council are land owner and applicant

1 EXECUTIVE SUMMARY

- 1.1 This site is within the built up settlement of Wisbech and is within a sustainable location.
- 1.2 It is considered that there are no site constraints which would render the development of the site for one residential unit unacceptable; subject to detailed design and appropriate safeguarding conditions.
- 1.3 The scheme complies with both national and local planning policy and may be favourably recommended.

2 SITE DESCRIPTION

- 2.1 The site comprises a parking area associated with the Rowan Close part of a residential housing estate constructed around the mid-1960s, it was apparent at the time of the site inspection that the area is not actively used.
- 2.2 Bounded on all sides by residential development and accessed via an existing estate road the site is largely laid to concrete; it is enclosed by a mix of close boarded fencing excepting at the access point to Rowan Close which is open.
- 2.3 It was evident from the site inspection that the area provides vehicular access to a garage to the rear of No 18 Rowan Close and that there is a walkway through to Wisteria Road in the south-eastern corner of the site. It is further noted that a gate exists in the rear boundary of No 47 Wisteria Road however this has been confirmed by the applicant as being a recent access and no formal rights of access exist over the car parking area.
- 2.4 It should be noted that a similar parking court to the north-eastern corner of Rowan Close has been developed as a pair of semi-detached dwellings; these dwellings are accessed via Black Bear Lane as opposed to accessing from Rowan Close.

3 PROPOSAL

- 3.1 The proposed development is for the erection of a dwelling on land south of 18 Rowan Close, it has been submitted in illustrative form with all matters reserved.
- 3.2 An illustrative site plan accompanies the scheme which shows a detached dwelling with a similar footprint to the individual semi-detached dwellings in the vicinity. Also indicated on the illustrative drawing is a retained access through to the garage associated with No 18 Rowan Close and a parking area and amenity space to serve the proposed dwelling.
- 3.3 Full plans and associated documents for this application can be found at:

<https://www.fenland.gov.uk/publicaccess/simpleSearchResults.do?action=firstPage>

4 SITE PLANNING HISTORY

- 4.1 No planning history listed for the site since 1974
- 4.2 Planning permission was granted under F/YR13/0136/F in 2013 for the erection of 2 x 2-storey 1-bed dwellings with associated parking on land formally occupied by garages to the rear of 46-50 Black Bear Lane. This development has been constructed.

5 CONSULTATIONS

5.1 Town Council

Recommend that the application be supported

5.2 Environment & Health Services (FDC)

The Environmental Health Team note and accept the submitted information and have 'No Objections' to the proposed development as it is unlikely to have a detrimental effect on local air quality or the noise climate. As the proposal involves development on land where previous structure(s) once stood, the unsuspected contamination condition should be imposed in the event that planning consent is granted. Following consultation responses received from local residents relating to earlier reports of contamination on this and other garage sites in the locality the E&H team have been re-consulted for their comments. They have responded as follows:

I can summarise that sampling was only undertaken on currently exposed land. This has not included the land under the footprints of the historic garages.

Sampling of exposed land has identified current elevated levels of Arsenic and Vanadium. The report has also recognised that it suspects the land under the garage footprints will have been exposed to hydrocarbons.

To remove the risk to human health it is requested that the land under the garage footprint is sampled for hydrocarbons and a mitigation measure for exposed soil (garden area) is provided to the LA for agreement.

The contamination can be easily mediated so I see no reason that development would not be able to go ahead. Determination would also help the developer undertake the demolition work needed to complete the sampling. A standard condition would be appropriate, as long as it was not discharged prior to remediation being completed.

5.3 **Kings Lynn & West Norfolk Borough Council**

Advised that it is their intention to delegate authority to FDC to determine the application noting that only a very small part of the site was within their area. Once the formal consultation period has expired they will provide their formal response in this regard. They also noted that whilst the site is within flood zone 1 it does appear that it is in a tidal hazard mapping area.

5.4 **Local Residents/Interested Parties**

3 letters of objection have been received which may be summarised as follows:

- Access
- Concerned about how this will affect our access to our back garden and garage if we park in our access are we going to get blocked in all the time?
- Parking arrangements
- Noise
- Environmental concerns - concerns re safety of the ground if it is disturbed after reading previous reports on poison found in ground, what measures will applicant take to ensure safety of current and future residents.
- Application form incorrect, red line site boundary appears to include land not in the control of the applicant (to the west)
- Queries use of soakaway
- Overlooking/loss of privacy - property will overlook garden which is currently not overlooked from the rear
- Shadowing and loss of light - property will block light from garden
- Visual impact
- Doesn't comply with policy
- Currently the land is used to play on by local children as there is no traffic
- The site is a walk through which is used regularly, including by children to access local park without them having to cross roads
- How will waste disposal vehicle access the property?

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 - Applications should be determined in accordance with the development plan, unless material considerations indicate otherwise

Para. 10 - Presumption in favour of sustainable development

Para. 12 - Presumption in favour of sustainable development does not change the statutory status of the development plan as the starting point for decision making

Paras. 24-27 Maintaining effective cooperation

Para. 47 – All applications for development shall be determined in accordance with the development plan, unless material considerations indicate otherwise

Para. 91 - Decisions should aim to achieve healthy, inclusive and safe places

Para. 98 - Decisions should protect and enhance public rights of way and access

Para. 118(d) promote the development of under-utilised land and buildings especially if this would help meet identified needs for housing where land supply is constrained and available sites could be used more effectively

Para. 127(f) - create places that are safe, inclusive and accessible and which promoted health and well-being and a high standard of amenity for existing and future users.

Paras. 178 - 189 - Ground conditions and pollution

7.2 National Planning Practice Guidance (NPPG)

7.3 Fenland Local Plan 2014

Policy LP1 – A Presumption in Favour of Sustainable Development

Policy LP2 - Facilitating health and wellbeing of Fenland Residents

Policy LP3 – Spatial strategy, the settlement hierarchy and the countryside

Policy LP14 – Responding to climate change and managing the risk of flooding in Fenland

Policy LP15 – Facilitating the creation of a more sustainable transport network in Fenland

Policy LP16 - Delivering and Protecting High Quality Environments across the District

8 KEY ISSUES

- **Background**
- **Principle of Development**
- **Character, Layout, Design**
- **Residential amenity**
- **Highway and access considerations**
- **Flood risk**
- **Contaminated land**
- **Other matters**

Background

9.1 There is no planning history relating to this site, although it is noted that the parking court to the north-eastern corner of Rowan Close has been developed and a pair of semi-detached units now occupy this area; these being accessed from Black Bear Lane. It is further noted that a pedestrian access from Rowan Close to Black Bear Lane, through the garage court area, was blocked off as a consequence of this development.

9.2 Background reports provided in respect of the above application indicated that the land was contaminated however the imposition of appropriate conditions secured remediation to ensure that the land was safe for development

10 ASSESSMENT

Principle of Development

10.1 The main policy documents which are relevant to the consideration of this application are Fenland Local Plan 2014, and the National Planning Policy Framework 2019. The weight that should be attributed to these policies and documents are considered below.

- 10.2 In terms of the FLP the scheme would in principle accord with Policy LP3 given that Wisbech is identified as one of the primary market towns where the majority of the district's new housing should be focussed. It is however necessary to demonstrate that there would be no harm arising to the visual amenity of the area or residential amenity with regard to Policies LP16. In addition it is necessary to demonstrate that there is a safe access to the site (Policy LP15) and that the scheme is acceptable in flood risk (Policy LP14) and that there are no other site constraints, including contamination etc which would render the scheme unacceptable.

Character, Layout, Design and Residential amenity

- 10.3 This is an outline application with all matters reserved, albeit an illustrative layout accompanies the submission. It is clear that there is sufficient land available on which to deliver a single dwelling.
- 10.4 Concerns regarding the relationship of the proposed dwelling overlooking and overshadowing properties in Wisteria Road are noted, however the development will be to the north of these properties and as such there would be no potential for overshadowing.
- 10.5 As this is an outline application the window positions are unknown at this stage; however there is scope at the detailed design stage to minimise overlooking; and whilst there likely to be an element of overlooking (which is not uncommon in urban areas) such overlooking subject to careful design is unlikely to have a significant detrimental impact on the private amenity of occupiers in Wisteria Road, and indeed residents of Rowan Close.
- 10.6 Based on the above evaluation it is considered that the scheme has the potential to accord with Policy LP16 of the FLP and as such may be favourably recommended.

Highway and access considerations

- 10.7 This is an outline planning application with all matters, including access reserved, however it is clear that there is an access available from Rowan Close and that the likely traffic generation arising from this proposal will be significantly less than the authorised use of the site as a parking area.
- 10.8 Comments regarding noise are acknowledged. In its current state the site has the characteristics of a potential area for anti-social behaviour and miscreants, with a poor level of passive surveillance as such the development of this site is likely to have a positive impact on the locality in terms of noise.
- 10.9 With regard to the existing throughway this would have been originally designed for access purposes associated with the former garages. Whilst the indicative layout appears to show this as being retained there would not appear to be a necessity to do so in this instance, this may be further considered at reserved matters stage through the use of boundary treatments/landscaping.
- 10.10 It is acknowledged that the consultation process has indicated that the throughway provides access to the park however the general footway network in the area (Rowan Close/Wisteria Road) does allow safe access to local facilities. Giving weight to the existing situation it is considered that the proposed development would on balance result in a positive contribution to the area, in that

it would either allow for natural surveillance of the throughway if it were retained as part of the scheme or alternatively should the development propose the blocking up of this throughway the resultant use of this currently unused area would be positive in terms of removing an area which has the potential to serve as an area for anti-social activities.

- 10.11 There is sufficient site area available to provide parking in accordance with the parking standards, it is anticipated given the constraints of the site that a 3-bed dwelling is likely to be delivered and this would require 2 car parking spaces
- 10.12 Concerns have also been raised with regards the obstruction of the access to the garage which serves No 18 Rowan Close should the development be approved. It is noted that the illustrative plan details that access will be retained and any conflict between users would be a civil matter between householders and could not be dealt with via the planning system.
- 10.13 Bin collection area will be achievable via established arrangements at Rowan Close.
- 10.14 Based on the above there are no matters arising that would indicate that planning permission should be withheld for this development on the grounds of LP15 of LP16 in so far as they related to access, servicing and highway safety.

Flood risk

- 10.15 This is a flood zone 1 location and as such it is sequentially preferable in terms of development and represents no issues with regard to Policy LP14.

Contaminated land

- 10.16 The consultation process has generated concern regarding the potential for the site to be contaminated, based on past reports for similar garage sites and an earlier report commissioned by FDC relating to a number of garage sites including this one.
- 10.17 The earlier reports highlighted by local residents has been brought to the attention of the Environmental Protection team in order that they make further observations with regard to contamination and mitigation. Notwithstanding this the site to the north-west of Rowan Close was developed with appropriate remediation to enable its safe occupation.
- 10.18 It has been clarified that it would be appropriate to secure further sampling and remediation by condition and a safeguarding condition may be appended to the decision in this regard.

Other matters

- 10.19 The application site straddles two local planning authority boundaries, Fenland and Kings Lynn and West Norfolk Borough and as such each authority is in receipt of identical applications for this development
- 10.20 Section 101(1) of the Local Government Act 1972 authorises a local authority to arrange for the discharge of functions by any other local authority. In this way it is possible for one Local Planning Authority to delegate its development control

functions to another in respect of a specific cross-boundary planning application or site.

10.21 In the absence of alternative administrative or statutory arrangements, a planning application should be determined by the LPA in whose administrative area the development is proposed to be carried out. In the case of cross-boundary applications, this can lead to two LPAs making individual determinations, imposing different conditions on the permissions and entering into separate s106 agreements. This is not recommended as it does not promote a coordinated approach to development management and the permissions granted by each LPA may be inconsistent in terms of the conditions attached to them and any associated planning obligations.

10.22 This is of course also highly undesirable in terms of achieving a coordinated approach to delivering development. It is also contrary to Government guidance, which encourages joint working between LPAs in relation to the use of their strategic planning powers (Paras. 24-27).

11 CONCLUSIONS

11.1 It is considered that the erection of a dwelling on the site identified is acceptable and accords with the relevant policy framework, subject to safeguarding conditions regarding contamination as required. The illustrative scheme demonstrates that the site may accommodate the amount of development proposed and that subject to detailed design it is considered that the development could be delivered without detriment to existing residential amenity.

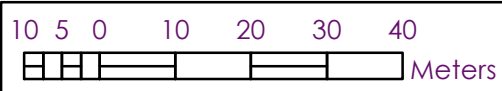
12 RECOMMENDATION: Grant

Conditions

1	<p>Approval of the details of:</p> <ul style="list-style-type: none">(i) the layout of the site(ii) the scale of the building(s);(iii) the external appearance of the building(s);(iv) the means of access thereto;(v) the landscaping <p>(hereinafter called "the Reserved Matters" shall be obtained from the Local Planning Authority prior to the commencement of development).</p> <p>Reason To enable the Local Planning to control the details of the development hereby permitted.</p>
2	<p>Application for approval of the Reserved Matters shall be made to the Local Planning Authority before the expiration of 3 years from the date of this permission.</p> <p>Reason - To ensure compliance with Section 92 of the Town and Country Planning Act 1990.</p>

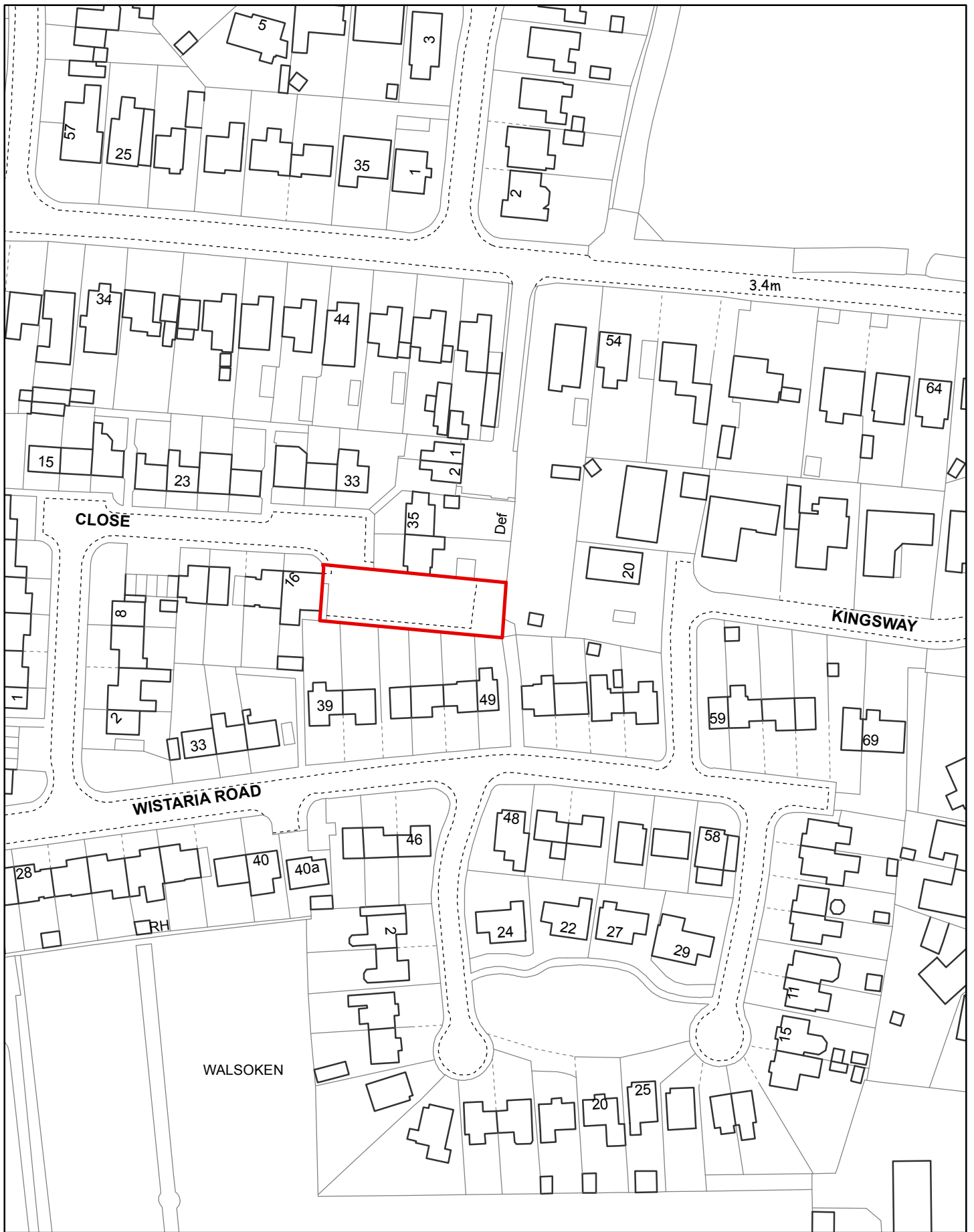
3	<p>The development hereby permitted shall begin before the expiration of 2 years from the date of approval of the last of the Reserved Matters to be approved.</p> <p>Reason To ensure compliance with Section 51 of the Planning and Compulsory Purchase Act 2004.</p>
4	<p>Prior to the commencement of the development hereby approved a scheme and timetable to deal with contamination of land and/or groundwater shall be submitted to, and approved in writing by, the Local Planning Authority. The approved scheme and timetable shall then be implemented on site. The scheme shall include all of the following measures unless the Local Planning Authority dispenses with any such requirement specifically and in writing:</p> <p>1. A desk-top study carried out by a competent person to identify and evaluate all potential sources and impacts of land and/or groundwater contamination relevant to the site. This should include a conceptual model, and pollutant linkage assessment for the site. Two full copies of the desk-top study and a non-technical summary shall be submitted to and approved in writing by the Local Planning Authority.</p> <p>IF during development any previously unsuspected contamination is discovered then the LPA must be informed immediately. A contingency plan for this situation must be in place and submitted with the desk study. If a desk study indicates that further information will be required to grant permission then the applicant must provide, to the LPA:</p> <p>2.A site investigation and recognised risk assessment carried out by a competent person, to fully and effectively characterise the nature and extent of any land and/or groundwater contamination, and its implications. The site investigation shall not be commenced until:</p> <p>(i) A desk-top study has been completed, satisfying the requirements of paragraph (1) above. (ii) The requirements of the Local Planning Authority for site investigations have been fully established, and (iii) The extent and methodology have been submitted to and approved in writing by the Local Planning Authority. Two full copies of a report on the completed site investigation shall be submitted to and approved in writing by the Local Planning Authority.</p> <p>Following written LPA approval of the Site Investigation the LPA will require:</p> <p>3. A written method statement for the remediation of land and/or groundwater contamination affecting the site. This shall be based upon the findings of the site investigation and results of the risk assessment. No deviation shall be made from this scheme without the express written agreement of the Local Planning Authority.</p> <p>4. The provision of two full copies of a full completion report confirming the objectives, methods, results and conclusions of all remediation</p>

	<p>works, together with any requirements for longer-term monitoring and pollutant linkages, maintenance and arrangements for contingency action shall be submitted and approved in writing by the Local Planning Authority.</p> <p>Reason - To control pollution of land or water in the interests of the environment and public safety.</p>
5	<p>The development hereby permitted shall be carried out in accordance with the following approved plans and documents</p>



Land at Rowan Close, Wisbech





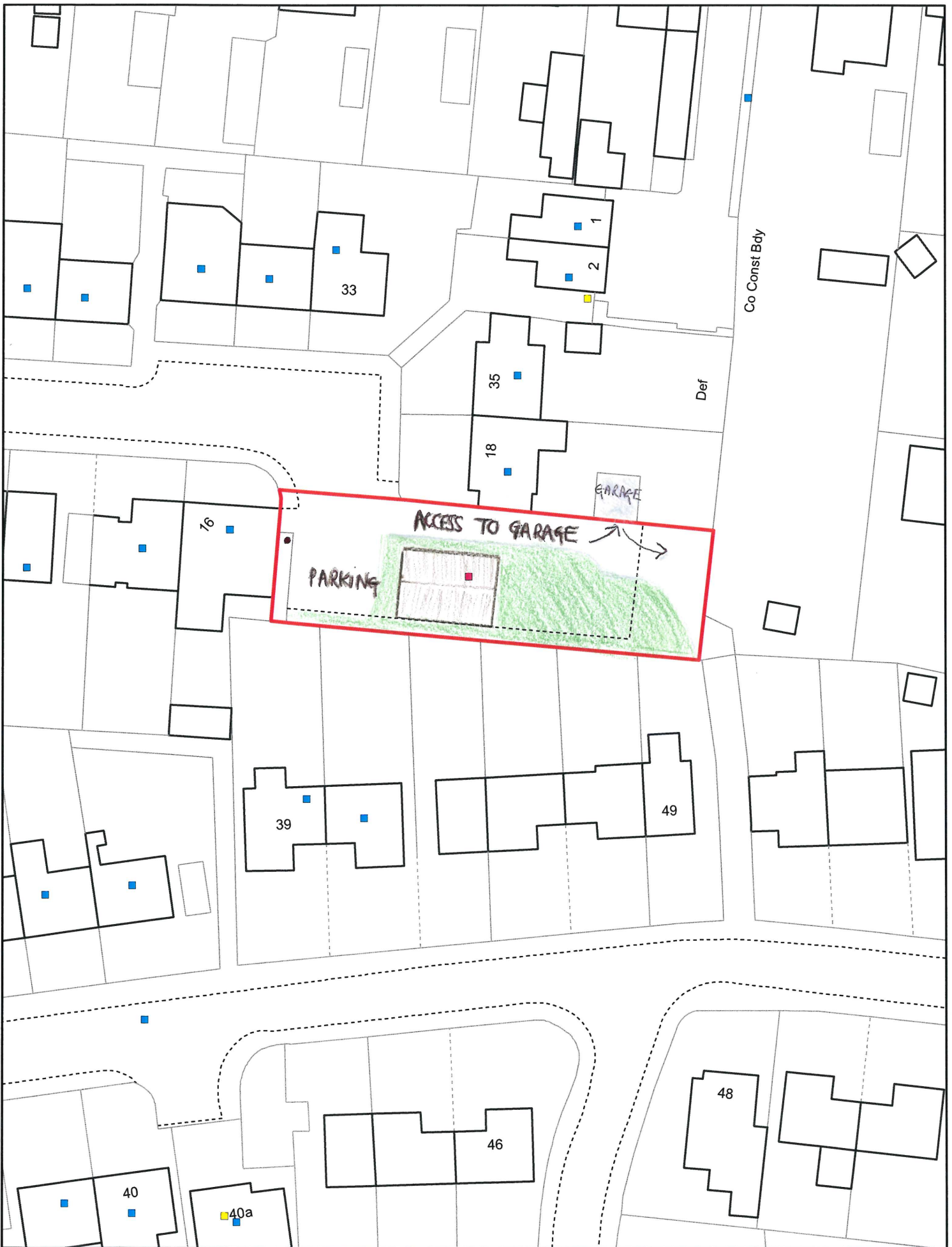
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Meters

Land at Rowan Close, Wisbech

FOR ILLUSTRATIVE PURPOSES ONLY

● LIGHTING POLE

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